ENERGY COMMUNITY SELF-HELP

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

OF THE

COMMITTEE ON FINANCE UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

APRIL 16 AND 17, 1982

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ENERGY COMMUNITY SELF-HELP

FRIDAY, APRIL 16, 1982

U.S. SENATE,
COMMITTEE ON FINANCE,
SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION,
Grand Junction, Colo.

The committee met, pursuant to notice, at 2:03 p.m., in the Grand Junction City Council Chamber, 250 North Fifth Street, Grand Junction, Colo., Hon. Malcolm Wallop (chairman of the subcommittee) presiding.

Present: Senators Malcolm Wallop and William L. Armstrong.

[The committee's press release announcing this hearing, the bill S. 1919, the Joint Tax Committee's description, and the prepared statement of Senator Armstrong follow:]

FINANCE SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION SETS HEARINGS ON S. 1919, THE ENERGY COMMUNITY SELF-HELP ACT

Senator Malcolm Wallop, Chairman of the Subcommittee on Energy and Agricultural Taxation of the Committee on Finance, announced today that the Subcommittee will hold hearings on Friday, April 16, 1982 in Grand Junction, Colorado and Saturday, April 17, 1982 in Evanston, Wyoming on S. 1919, which would permit a taxpayer to deduct currently the prepayment of qualified energy impact assistance expenditures and contributions.

The Grand Junction, Colorado hearing will commence at 2 p.m. on April 16, 1982, at a location to be announced. The Evanston, Wyoming hearing will commence at 9 a.m. on April 17, 1982 at the Evanston High School, 341 Summit Street.

In explaining S. 1919, Senator Wallop stated, "The underlying thrust of the Armstrong-Wallop proposal is to help energy impacted communities help themselves by providing them with the advantage of being able to tap their future tax bases, and by removing the disincentives found in the tax code for industry to take a more active role in assisting with energy impact problems.

"The bill is very compatible with the energy package recently announced by the State of Wyoming, local officials, and the Overthrust Industrial Association, to assist Evanston and similar communities with its energy problems.

"We are not asking for a new Government spending program, but are trying to provide a funding mechanism which is flexible enough to accommodate extensive planning efforts between industry and Government, and which recognizes that every area is unique and that the problems are best handled by those who are directly affected and involved.

"Hope that hearings will provide a strong record of support from the State and local governments, and from industry—the simplicity of the approach and the flexibility it offers should be of great help to many communities in Wyoming, Colorado and other energy producing States."

FINANCE SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION ANNOUNCES LOCATION OF FIELD HEARINGS ON S. 1919

Senator Malcolm Wallop, Chairman of the Subcommittee on Energy and Agricultural Taxation of the Committee on Finance, announced today that the previously announced April 16 field hearing on S. 1919, the Energy Community Self-Help Act, will be held at the Grand Junction City Council Chamber, Fifth and Rood Streets, Grand Junction, Colorado. The Grand Junction hearing will commence at 2 p.m. As previously announced, a hearing on S. 1919 will also be held on April 17, at 9 a.m. in Evanston, Wyo. at Evanston High School located at 341 Summit Street.

II

97TH CONGRESS
1ST SESSION

S. 1919

To amend the Internal Revenue Code of 1954 to assist in lessening the impact on communities of rapid growth resulting from energy or resource development, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 8 (legislative day, NOVEMBER 30), 1981

Mr. ARMSTRONG (for himself and Mr. WALLOP) introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend the Internal Revenue Code of 1954 to assist in lessening the impact on communities of rapid growth resulting from energy or resource development, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Community Self-Help Act of 1981".

SEC. 2. DEDUCTION FOR PREPAYMENT OF ENERGY IMPACT ASSISTANCE PAYMENTS.

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1954 (relating to taxable year for which deductions taken) is amended by adding at the end thereof the following new section:

"SEC. 467. PREPAYMENT OF ENERGY IMPACT ASSISTANCE EXPENSES.

"(a) IN GENERAL.—At the election of the taxpayer, there shall be allowed as a deduction for the taxable year (in lieu of any other taxable year) an amount equal to the qualified energy impact assistance expenditures paid during the taxable year which (determined without regard to this section)—

"(1) are otherwise allowable as a deduction under this chapter, and

"(2) are properly allocable to any taxable period which is after the close of the taxable year in which paid.

"(b) QUALIFIED ENERGY IMPACT ASSISTANCE EXPENDITURE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified energy impact assistance expenditure' means any expenditure or contribution which—

"(A) represents a State or local tax, fee, rent, or royalty,

"(B) is required or permitted under State or local law to be paid before the taxable period such expenditure or contribution is allocable (determined without regard to this section), and

"(C) is to be used by the State or local government to meet needs incidental to population growth arising out of the operation of major energy and resource development activities.

"(2) The term 'operation of major energy and resource development activities' means the development, operation, and construction of—

"(A) any facility used primarily for exploring, producing, extracting, processing, converting, or refining of minerals including, but not limited to, a mine, powerplant, mill, retort, or related facility;

"(B) any facility operated in connection with a synthetic fuel project (within the meaning of section 112(18) of the Energy Security Act); or

"(C) an electric generation facility designed to consume coal located in the immediate area of such facility;

but only to the extent that capital expenditures in connection with such facility will exceed $50,000,000 when construction is complete or that the gross income

to be received over the life of the facility will exceed $50,000,000.

"(c) METHOD OF ACCOUNTING.—For purposes of this title, an election under this section shall not be treated as a change in the taxpayer's method of accounting.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 of such Code is amended by adding after the item relating to section 466 the following new item:

"Sec. 467. Prepayment of energy impact assistance expenses.".

SEC. 3. DEDUCTIONS FOR ENERGY IMPACT ASSISTANCE CONTRIBUTIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 196. ENERGY IMPACT ASSISTANCE.

"(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year the qualified energy impact assistance amount of the taxpayer for such taxable year.

"(b) QUALIFIED ENERGY IMPACT ASSISTANCE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified energy impact assistance amount' means any amount or property—

"(A) which is—

"(i) paid or contributed to a State or local government and to be used to provide qualified public facilities and services, or

"(ii) paid, contributed, or incurred directly for qualified public facilities and services provided to the State or local government, and

"(B) with respect to which a deduction or credit is not otherwise allowable under this chapter.

"(2) CERTAIN AMOUNTS IN CONNECTION WITH BONDS.—For purposes of paragraph (1), if a State or local government issues obligations the proceeds of which are to be used to provide qualified public facilities or services, then—

"(A) the amount of any loss recognized by the taxpayer on such obligations were purchased by the taxpayer, and

"(B) the amount the taxpayer pays as a guarantor of such obligations,

shall be treated as amounts paid for qualified public facilities or services.

"(3) QUALIFIED PUBLIC FACILITIES AND SERVICES.—For purposes of this subsection, the term

'qualified public facilities and services' means facilities and services provided to a State or local government as a result of population growth arising out of the operation of major energy and resource development activities (within the meaning of section 467(b)(2)). Such term includes, but is not limited to, facilities or services provided in connection with—

"(A) roads,

"(B) schools and education,

"(C) parks and recreation,

"(D) housing,

"(E) governmental administration,

"(F) fire and police protection,

"(G) water supply,

"(H) waste water collection and treatment (including drainage), and

"(I) hospitals and health care.".

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter 3 of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 196. Energy impact assistance.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after June 30, 1980.

O

DESCRIPTION OF S. 1919

(THE ENERGY COMMUNITY SELF-HELP ACT)

SCHEDULED FOR A HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

OF THE

SENATE COMMITTEE ON FINANCE

ON

APRIL 16 AND 17, 1982

PREPARED BY THE STAFF

OF THE

JOINT COMMITTEE ON TAXATION

APRIL 16, 1982

JCX-7-82

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INTRODUCTION

The Subcommittee on Energy and Agricultural Taxation of the Senate Finance Committee has scheduled hearings on S. 1919 on April 16, 1982, in Grand Junction, Colorado, and on April 17, 1982, in Evanston, Wyoming. The bill (introduced by Senators Armstrong and Wallop) would permit taxpayers to deduct currently the prepayment of qualified energy impact assistance expenditures and to deduct energy impact assistance contributions.

This document, prepared in connection with the April 16 and 17 Subcommittee hearings, provides a summary of S. 1919, a more detailed description of the bill, including present law, issues, and effective date, and the revenue effect of the bill.

I. SUMMARY

Present law

State and local taxes paid in connection with a taxpayer's trade or business are deductible in computing Federal income taxes in the year paid or incurred. Taxpayers who voluntarily prepay deductible State or local taxes before the year for which such taxes relate generally may not deduct them before the year in which they accrue.

Taxpayers are allowed deductions for contributions made to or for the use of a State, a possession of the United States, or any political subdivision of a State, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes. Contributions to a governmental entity which inure to the benefit of the donor are not considered to be made for exclusively public purposes and do not qualify as deductible charitable contributions.

S. 1919

The bill would allow taxpayers to elect to deduct prepayments of State and local taxes in the year of the prepayment, if the proceeds of such tax prepayments are to be used by the State or local government to meet needs incidental to population growth arising out of the operation of major energy and resource development activities.

The bill also would allow taxpayers to deduct energy impact assistance contributions of cash or property to a State or local government to be used to provide certain public facilities and services as a result of population growth arising out of the operation of major energy and resource development activities.

II. DESCRIPTION OF S. 1919

Energy Community Self-Help Act

A. Present law

Under present law, taxpayers may deduct, in computing their Federal income tax, State and local taxes paid or incurred in connection with the taxpayer's trade or business. Generally, a taxpayer who uses the cash method of accounting may deduct such taxes in the year in which payment of the deductible amount is made. An accrual-method taxpayer may deduct such taxes when all the events which determine the fact of the liability have occurred and the amount of the deduction can be determined with reasonable accuracy.

Even though some State and local jurisdictions authorize the prepayment of State and local taxes, taxpayers who voluntarily prepay these taxes before the year for which such taxes are imposed generally may not take a deduction in the prior year. This treatment is consistent with the treatment of prepaid expenses generally. Furthermore, if a taxing jurisdiction changes the time for imposing a deductible tax so that the tax would be deductible in an earlier period under the accrual method, an accrual basis taxpayer may not deduct the tax in an earlier period. Instead, the taxpayer may deduct the tax in the period that the tax otherwise would have been deductible if the taxing jurisdiction had not changed the time for imposing the tax.

Under present law, taxpayers may deduct contributions made to or for the use of a State, a possession of the United States, any political subdivision of a State, the United States, or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes. Thus, for example, if a taxpayer contributes property to a local government to enable that government to make improvements that directly benefit the taxpayer's business, the contribution is not a charitable contribution because it is not made exclusively for public purposes. In addition, the expenditure may be treated as a capital expenditure to be recovered through amortization or depreciation or to be added to the taxpayer's basis in land or other non-depreciable assets.

B. Issues

(1) Should taxpayers be allowed to deduct prepayments of State and local taxes in the year paid, rather than in the year to which such taxes relate, if the prepaid amounts are used by the State or local government to meet needs incidental to population growth in the area arising out of the operation by the taxpayer of major energy and resource development activities?

(2) Should taxpayers be allowed to deduct energy impact assistance contributions to a State or local government to be used for certain public facilities and services, even though such taxpayer receives direct or indirect benefits from such contributions?

C. Explanation of the bill

S. 1919 would allow taxpayers to currently deduct, in computing their Federal income taxes, prepayments of certain State and local taxes, and would also allow a deduction for certain energy impact assistance contributions.

Prepaid Energy Impact Assistance Expenses

Under the bill, taxpayers would be allowed to elect to deduct prepayments of certain State or local taxes in the year payment is made, if such payment consitutes a "qualified energy impact assistance expenditure." Prepayments of such State or local taxes would normally only be deductible in the later taxable years to which these taxes were properly allocable.

A "qualified energy impact assistance expenditure" would be any expenditure or contribution which (1) represents a State or local tax, fee, rent or royalty, (2) is required or permitted under State or local law to be prepaid in a year prior to the taxable year to which it is allocable, and (3) is to be used by the State or local government to meet needs incidental to population growth arising out of the operation of major energy and resource development activities.

To qualify as an energy impact assistance expenditure, prepayments of State or local taxes must be made in connection with the operation of major energy and resource development activities. These activities are defined as the development, operation, and construction of certain types of facilities the capital cost of which exceeds $50,000,000, or the gross income from which will exceed $50,000,000 over the life of the facility. The bill does not explicitly restrict the availability of these deductions for prepaid taxes to the particular taxpayer who is developing, operating, or constructing the facility.

The operation of major energy and resource development activities means the development, operation, and construction of (1) any mineral mining or processing facility including, but not limited to, any mine, powerplant, mill, retort, or related

facility, (2) any facility operated in connection with a synthetic fuel project, or (3) an electric generation facility designed to consume coal produced in the immediate area of such facility.

Energy Impact Assistance Contributions

Under the bill, taxpayers would be allowed a deduction for contributions or payments of cash or property to a State or local government to be used to provide certain public facilities and services as a result of population growth arising out of the operation of major energy and resource development activities, as defined above.

A deduction would be allowed for any amount paid or contributed to a State or local government to be used to provide qualified public facilities and services, or for any amount paid, contributed, or incurred directly for qualified public facilities and services provided to the State or local government, with respect to which a deduction or credit is not otherwise allowable under Federal income tax laws.

Qualified public facilities and services include, but are not limited to, facilities and services provided in connection with roads, schools and education, parks and recreation, housing, governmental administration, fire and police protection, water supply, waste water collection and treatment (including drainage), and hospital and health care.

Under the bill, an amount paid for qualified public facilities or services would include (1) any loss recognized by the taxpayer on State or local government obligations which the taxpayer had purchased if the proceeds of the obligations are to be used to provide qualified public facilities or services, or (2) any amount the taxpayer pays as a guarantor of State or local government obligations used to provide qualified public facilities or services.

D. Effective date

The provisions of the bill would apply to taxable years beginning after June 30, 1980.

III. REVENUE EFFECT

This bill is estimated to reduce fiscal year receipts by less than $25 million annually.

96-061 O—82——2

WILLIAM L. ARMSTRONG
COLORADO

United States Senate
WASHINGTON, D.C. 20510

April 16, 1982

Statement by Senator William L. Armstrong on

S. 1919, The Energy Community Self-Help Act of 1981

Grand Junction, Colorado

Western Colorado has the energy sources America desperately needs... enough gas and coal to keep the U.S. going for decades.

But how fast these resources can be developed, and at what social, economic and environmental cost to our state, depends on reversing federal policies which hinder prudent and orderly development.

In an area smaller than our 13 original states, Western Colorado has a trillion barrels of oil locked in shale; at least half of which is now recoverable. The state also has 500 billion tons of coal and 500 billion cubic feet of natural gas. Incredible though it may seem, every home, car, factory and office building in the United States could be fueled by Colorado energy...at present rates of use, for over 100 years!

But producing and marketing even a fraction of this immense energy potential will require massive development. What is being proposed, and in some cases already taking place, is the construction of new cities, factories and mines on the desert mesas of western Colorado where today not a school, not a hospital, not a curbstone is in place. There are no homes, no parks, no churches; there is only the sagebrush, the juniper and, underground, there is coal, oil shale and natural gas.

It is no sure bet that large scale energy production will occur in the Rocky Mountain West. The economics of large scale production remains precarious. But if the production occurs, Colorado must be prepared. And it must be prepared to handle the acute growing pains it is now experiencing.

Take Battlement Mesa, Colorado, for example. Twelve months ago there was not a single foundation or two-by-four in place. Today Battlement Mesa is the home of 3,000 Coloradans, most of whom work at the nearby oil shale projects.

This sort of growth could only be the beginning. When large scale production occurs, dozens of municipal buildings, jails, schools, courts, water and sewage systems, recreational facilities and other public facilities must be constructed.

These facilities are necessary to meet the employee needs if production occurs. Right now more than a dozen oil shale plants are either under construction or being planned; there are at least 20 major coal mining operations under way, and many are developing major expansion plans. Some projections hold that Colorado could produce as much as 300,000 barrels of synthetic fuel by 1990, and will triple its present coal production.

Even though large scale energy production is just beginning, Colorado is already experiencing acute growing pains. Battlement Mesa is one example. Overall, population in western Colorado is already up 25% in less than a decade. Demands on water supply are already severe. Where less than a decade ago violent crime was unheard of in some frontier towns, some cities are faced with 400% and even higher increases in violent crimes. Housing is scarce; incredibly, there is no measurable apartment vacancy rate. And when housing is found, it is expensive.

These human needs are great, varied and expensive to satisfy. But before any large-scale development takes place, these needs must be met immediately. Hospitals and roads can be erected after the population arrives; but they should be in place beforehand. The same is true for water treatment facilities, schools, jails and all the other essentials of modern living.

And so the dilemma: Social chaos will result if needed facilities are not available in a timely manner when, the population booms. Yet such facilities are financed by property taxes which become available too late. Indeed it takes at least two years from the time that new commercial and residential properties are constructed for them to be assessed and tax payments to begin.

This "tax lag" is an acute problem in western Colorado. One study shows that the capital needs of Colorado's new and booming towns exceeds revenues by more than a five-to-one margin, and it is not inconceivable that this deficit may never be made up.

As has so often happened in the past, Coloradans are meeting these growth problems head-on with creativity and resourcefulness. Elected officials are rewriting their policies to do all they can to ensure that development keeps pace with social needs. No less than a dozen citizens commissions are analyzing future energy-related growth, and estimating what facilities are needed where and when.

The state legislature has recently enacted legislation to allow firms to prepay their state and local property taxes, and these prepaid taxes -- the amount an energy firm will owe the state the next five to 15 years -- will help finance facilities needed today.

The legislature has also enacted severance taxes which will raise money once energy production begins.

To their credit, energy firms are contributing significant energy impact sums in anticipation of future profits. One firm, Union Oil, will invest more than $60 million, including $22 million to house employees and $12 million to help upgrade local roads, increase police protection and water treatment, build a new school and finance new fire protection and recreation services. Western Energy Corporation recently signed an agreement to provide more than $60 million to offset impacts caused by a new coal mine. Another firm will finance a new school with interest-free loans. Other firms are following suit.

Although the sums contributed by energy firms are significant, they do not meet all the needs created by resource development. Fortunately, energy firms want to contribute more, and every impact aid dollar is feverishly desired by local officials.

What hinders energy firms from contributing more money is federal tax law. Even though the federal government has the most to gain from energy development -- at least $40 billion in new tax revenues and achievement of its national goal of energy independence -- Washington has been strangely silent about the needs created by energy development. Worse, tax policy discourages local initiatives to resolve the problem.

One fact must be made clear. No one in Colorado expects large federal energy impact aid programs; nor, frankly, are such programs wanted. We are aware that, with a federal budget projecting $200 billion in future deficits, it is unlikely that a costly federal direct aid program will be created. Moreover, Coloradans oppose traditional Washington solutions that only throw money at a problem. With some exceptions, such programs are uncertain, undesirable, have no return on the original investment and are insensitive to local needs.

But what Colorado rightfully expects is the federal government to end those practices that interfere with local energy impact initiatives.

That is the goal of the legislation I am introducing today.

There are two inequities in current tax law that my bill seeks to address. First, the Internal Revenue Service gives energy firms a federal tax deduction for paying their state and local taxes, but only one year at a time. Thus, a company has an incentive not to prepay its state and local taxes, even though Colorado law allows it to do so, because federal tax law only gives a tax deduction for paying year by year. The bill I am introducing permits energy firms to prepay state and local taxes and get a federal tax deduction for doing so.

The second obstacle in tax law is that it provides no certainty about the tax treatment of expenses incurred by industry for energy impact assistance. Contributions made by energy firms to local governments that finance community facilities should be a normal business expense, and therefore federally deductible the same year it is made, but it isn't. Energy firms lack clear guidance about what constitutes deductible expenses for energy impact assistance. The Internal Revenue Service has made one arbitrary ruling after another in this area. The result? There is no financial incentive -- in fact, there is a powerful disincentive -- for energy firms to work hand-in-hand with state and local governments to provide the necessary services.

There are several reasons for the tax uncertainty that is so pervasive in this tax area. First, expenses are only deductible if they are made by a "going trade or business." The problem with oil shale development is that it is a capital-intensive industry with long lead time necessary before production begins. Thus, the Internal Revenue Service has ruled that energy impact contributions are not deductible in the year made; rather, they are capitalized as a cost of the total project...making tax relief possible only at the sale of the project or at the end of the useful life of the project.

The second problem is Section 167 of the Internal Revenue Code, the charitable contributions section. This section provides deductions made for contributions to a civic or charitable purpose. To qualify as a deduction under this section, the contribution can only be for a "benevolent purpose" and cannot benefit the firm making the contribution. Thus, if a firm provides funds to build a school for the children of a community in which its employees will live, the firm cannot deduct these expenses under Section 167.

To eliminate any uncertainty, my legislation creates a new section in the tax code providing deductions for energy impact expenditures. My approach is simple. Energy firms whose assessed value exceeds $50 million upon completion will be able to deduct contributions in the year made for facilities or services contributed to state and local areas where there is significant energy development.

Is this legislation necessary? Let me quote from a few of the letters I have received:

> "...the only relief offered for money advanced for mitigation of socio-economic impact is prepayment of future 'ad valorem' or severance tax...Allowing this (prepayment) to be expensed in the year it was expended would be extremely helpful...properly constructed tax benefits to encourage support of community facility development should not have to be limited -- they could be planned to give the developers incentive to minimize them."
>
> -- Roger Loper, President
> Chevron Shale Oil Company

"The tax treatment of sums contributed to help finance community development projects designed to mitigate socio-economic impacts varies according to the circumstances of each gift. To encourage impact mitigation contributions, legislation should permit payments of against future tax liabilities to be deducted in the year paid rather than in the year of tax obligation."

-- F. D. Dennstedt
Senior Vice President
Exxon Company, U.S.A.

"There is no specific provision of the Internal Revenue Code covering amounts contributed to mitigate socio-economic impacts. Depending upon the circumstances surrounding a particular contribution and the nature of the assistance, expenditures incurred may or may not be deductible for federal income tax purposes. This uncertainly quite often causes needless concern in the decision-making process regarding potential impact assistance...legislation encompassing a current deduction for such expenditures is badly needed."

-- John M. Hopkins, President
Union Oil

"...(legislation to) encourage the prepayment of state severance taxes and property taxes would encourage the utilization of this method to provide the upfront financing of local facilities and services impacted by such development."

-- Harry Bowes
Executive Vice President
Colorado Counties, Inc.

Here is how my bill would work once it is enacted: First, if a state allows for prepaid property taxes and the taxes are used for needs related to energy growth, large energy projects (at least $50 million in taxable property or in projected income) can prepay its state taxes, and deduct such payments in the year the payment is made.

Second, my bill creates a new section in the Internal Revenue Code that provides a deduction for energy impact assistance expenditures. Large energy firms will qualify for this deduction if their energy impact contribution is paid to a unit for state or local government to help pay for facilities or services the entire community can use, like hospitals, roads, schools, parks, fire and police protection, water supply and governmental administration.

This legislation is consistent with what I believe should be the purpose of both national and local energy policy: To build energy projects that are technically sound, environmentally responsible and financially rewarding -- all located in communities whose facilities, services and infrastructures can support, with minimum stress, the needs of thousands of employees and their families who will be needed to operate and maintain each of these projects.

This legislation accomplishes this goal in three ways:

First, it removes federal tax obstacles preventing full local government-industry cooperation in jointly planning and large energy projects. Essentially, this bill removes the federal government as a negative force in energy project planning and energy impact mitigation. Local governments will be free to negotiate the best deal they can about how much financial help will be required from new developments before the necessary state and local permits will be issued. Both the energy firms and local officials will know that whatever sums are contributed, they will be deductible from federal tax returns.

The fact remains unchallenged that healthy communities mean increased worker morale, less turnover, higher productivity, faster construction and lower costs in energy development in the long run. Thus, energy firms will ultimately save vast sums if they pay -- as many are willing to do -- adequate attention to front end community impact mitigation measures. It also encourages communities and companies to become allies instead of adversaries in planning for the future.

Second, the bill provides tax certainty and tax simplicity. Energy firms that meet limited criteria will know for certain if they can deduct from their federal returns their prepaid taxes or energy impact contributions on line faster.

Third, the bill will not over time lose revenues from the Federal Treasury. For the most part, this legislation only accelerates federal tax deductions; it does not create any new federal tax subsidy. In fact, this bill will likely accelerate revenues for the federal government as it will help reduce delays in meeting socio-economic energy impacts associated with large-scale energy production. With these delays reduced, energy production can begin faster, as will federal revenues.

Fourth, this bill will benefit all communities nationwide feeling the burdens associated with energy development. This is not a bill of special interest to Colorado and the Rocky Mountain West. Whether it is a new coal mine in Pennsylvania, or a major drilling operation in Texas, or a new synfuel plant in Kentucky, energy impacted communities will profit from this legislation.

This legislation merits quick enactment. It is fair, reasonable, practical, worthwhile, and represents sound tax policy. It is also urgently needed.

Senator WALLOP. Afternoon, ladies and gentlemen. I think your Senator and my colleague are amazed that we are starting so close to the designated hour. It seems like a long time ago we left Washington.

Senator ARMSTRONG. We must have dropped something out of the schedule to be on time.

Senator WALLOP. I want to, again, express the pleasure that I have of being here this afternoon as your guest with Bill, in the neighboring State of Colorado, who is on the threshold of some of the same kinds of problems that he have in my State of Wyoming. And the purpose of the hearings here today in Grand Junction and the second hearing to be held tomorrow in Evanston, Wyo., is to gather comments and suggestions on what I believe is legislation which represents a responsible and realistic and, indeed, creative approach to assisting energy impacted communities without—and I emphasize "without" especially in this day and age—any long-term expense to the Federal Government, and without the needless and costly and inefficient interference of a myriad of new Federal agencies and subagencies.

In joining with your able Senator, and my friend and colleague, Bill Armstrong, in the introduction of this energy impact legislation, which is the subject of the hearing, we have sought to assist energy impacted communities by providing a mechanism through which they can do more to help themselves, they knowing the best what is at issue in their own area at a given time, and this we hope to accomplish by two means. First, communities will find it easier to tax their anticipated future tax base for up-front money by allowing companies, who prepay State and local taxes for purposes of providing needed public service, an immediate Federal tax deduction for that payment. Second, companies will be encouraged to make greater financial contributions to assist in mitigating energy and impact problems. Presently, as you know, if a company makes a contribution to a community for public service, there is some uncertainty, depending on the circumstances, whether or not the Internal Revenue Service will treat that as a charitable act or a cost of doing business, requiring that the expense be written off over an extended period of time. This legislation explicitly provides if a contribution is made to provide public services or facilities, then it will be allowed as an immediate deduction.

Let me point out, from the experience we have had in my State of Wyoming, and I'm sure Bill will agree with me, this is not proffered as a cure-all for energy impact problems, and it's certainly no substitute for adequate planning and coordination. Those activities rightfully belong in the hands of those who feel them most immediately and who are involved in the consequences of energy development.

The energy potential which is locked in the great oil shale of the western slope of Colorado and parts of Wyoming and Utah is unimaginable in its magnitude. By some estimates, in excess of a trillion barrels of oil await for technology to make it flow. Your growth and ours, in many parts of Wyoming, is going to be staggering as this technology comes on stream.

I hope this legislation, which Senator Armstrong has designed, and which I happily join in cosponsoring, will be of some assistance as you begin to cope with those very real problems which lie ahead.

With that, I wanted to do one thing, Bill. No, go ahead, you can do that and I will introduce our staff.

Senator ARMSTRONG. Well, Mr. Chairman, mainly I would like to thank you for convening this hearing today and welcome you to Grand Junction, Colo. And then, if I could, for a moment, address not the Chair, but my friends here in western Colorado, to simply say how fortunate we are that the destiny of this legislation is in Malcolm Wallop's hands because he's not only a neighbor and good friend, but he's a man who really understands from firsthand expe-rience in Wyoming, as well as in Washington, what the problems are when communities face the sort of explosive growth that communities in western Colorado have had to contend with. And so I'm pleased not only that he's the chairman of the subcommittee that has jurisdiction over this important legislation, but even more so that he has consented to be a cosponsor of the legislation that I have introduced.

Mr. Chairman, rather than giving any detailed introductory statement, I would like to submit for the record of this proceeding a statement discussing S. 1919 then I think we are ready to go ahead.

I would ask if it would be all right for two minor rearrangements. Maybe we could shuttle some of these chairs down off of the dais so others could be seated. And I would like to inquire of the Chair if this is going to be one of those hearings where we could take our coats off?

Senator WALLOP. By all means, because I can tell right now we are going to need that.

I would also like to state, for the record, that this is a formal hearing of the Subcommittee on Energy and Agricultural Taxation of the Finance Committee. And we are represented here on the Finance Committee staff by Mr. Rod DeArment, who is out to give whatever assistance we may need in the process.

Are there any other chairs in the corners? We would like to accommodate as many people as we can.

OK. Our first witness is no stranger to you or to me. Indeed, he's an old friend, the Honorable Wayne Aspinall. I know I first met him many years ago. I was just in a quick reminiscence with you, Wayne, and recalled that I was at your wedding reception in the Capitol, that's been a day or two ago. But I am glad to see you here. And, certainly, we are very much looking forward to your testimony.

STATEMENT OF WAYNE N. ASPINALL, CONSULTANT ON NATURAL RESOURCES FOR CLUB 20

Mr. ASPINALL. Mr. Chairman Wallop, Senator Armstrong, members of the committee, I have the pleasure this afternoon of making my presentation as a consultant for Club 20. My presentation will be short. And I will be followed by a gentleman who now heads Club 20's activities.

May I say that I remember the pleasure, Malcolm, of our former association in those days when John Wold was the Congressman from Wyoming, and a member of my committee, and a very able member of my committee. So I welcome you to this area where I happen to be a senior citizen, and, Bill, we welcome you home.

And we thank each of you for your interest in matters which have to do with western Colorado and in matters which have to do with the Rocky Mountain area.

I tried to find where you were. I wasn't able to because I went to the auditorium. I have only been at home 2 years and I never knew where this particular council chamber was. I went over to my office across the street and I left my short written statement over there, so I would ask unanimous consent that I may present it to you later on in the afternoon and make it a part of the record.

Senator WALLOP. By all means, it will be incorporated.

Mr. ASPINALL. Club 20 is an organization similar to a very effective chamber of commerce for the western 20 counties of Colorado. We are interested in the socio, the economic, and the environmental operations and activities in our area. We find ourselves at the present time confronted with problems with which the western slope has never been confronted before. This has been a rather slow-growing community up until recent years. It has been my good fortune to be a resident of this community, Palisade, since 1904. In fact, I live three blocks directly south of where I lived in June 1904. And I have been interested in the activities of western Colorado, as well as Colorado and the Rocky Mountain area, primarily, as we try to serve ourselves and serve the needs of the people of the United States.

Our organization is headed by two officers, the chairman of Club 20, who is here this afternoon, and also former Governor Vanderhoof, who is the president of the organization, who is presently visiting in Australia and New Zealand. Some people get very fine advantages in retirement. I have never found it that way.

So I'm here this afternoon to present the able, effective, new in the office but old in the problems of western Colorado, chairman of Club 20, Sam Suplizio of Grand Junction, who will now speak on Club 20's position.

[The prepared statement of Hon. Wayne N. Aspinall follows:]

PREPARED STATEMENT OF HON. WAYNE N. ASPINALL

Chairman Wallop, Senator Armstrong and Members of the Committee. My name is Wayne N. Aspinall. I am consultant on natural resources for Club-20.

I wish to welcome the members of this Committee as they appear here in Western Colorado for Hearings on Senate Bill—1919. I can assure you that we know the importance of this Legislation, and that Club-20 is very pleased to be able to make a presentation.

Club-20 is a coalition of counties, communities, industries, and individuals with a strong bipartisan voice on issues of Regional Concern. The interests of the Organization have to do with the economic development, natural resources development, agricultural and livestock development, tourism, transportation, aviation and like endeavors of our area.

Club-20 endorses and supports the wise and multiple use principle of the development of our natural resource values—privately and Governmentally owned.

Club-20 endorses and supports reasonable and wise environmental and conservation programs, which protect and enhance our human and natural resource values.

Club-20 strives to protect the "way of life" (traditional values) of our area at the same time making our contribution to the Regional and National welfare of our fellow citizens.

It is my privilege and honor to present to this Honorable Committee the present Chairman of Club-20, Sam Suplizio of Colorado, who will now present the views of Club-20 on the Legislation on which you are holding these Hearings.

Chairman Suplizio.

Senator WALLOP. Wayne, let me thank you and Sam. Before you speak, let me just say it's a great tribute to this part of the world, and to our former Congressman, that he was not smitten with "Potomac fever" and has come back here to live and be with those who he served so well when he was in office.

Sam.

STATEMENT OF SAM SUPLIZIO, CHAIRMAN OF CLUB 20

Mr. SUPLIZIO. Mr. Chairman—thank you very much for those kind words—Senator Wallop, Senator Armstrong.

My statement on behalf of Club 20 will be brief. When an insurance man says "brief," it could be anywhere from 5 minutes to an hour and a half. But it will be brief, and at the same time very supportive of the concept of Senate 1919, more commonly known as the Energy Community Self-Help Act of 1981 or the prepayment of taxes bill.

Nownere in this country, that we are aware of, has there been proposed such dense, rapid and intensive development as we are experiencing today in western Colorado. This region is said to contain a trillion barrels of oil shale, 50 billion tons of coal, 500 billion cubic feet of natural gas, 75 percent of our Nation's known uranium reserves, along with many other minerals vital to the well-being of our country. It's quite obvious that we must take mineral deposits where they are found. In mining, there is not the luxury of a large number of alternative sites as there is in manufacturing, warehousing, or homebuilding.

To develop these resources, one planner estimates an influx of between 180,000 to 200,000 people throughout western Colorado in the next few years. To properly service this growth, entire new communities are being planned with some presently underway on lands where once only sagebrush appeared. These people will need housing, roads, schools, houses, jails, water treatment facilities, and the list goes on and on. People services cost money, and money in a traditionally capital-starved area is not easy to come by.

The intent of Senate 1919, even though not a total solution, as you mentioned earlier, will certainly help relieve many of the financial uncertainties which presently confront local government, by allowing the prepayment of State and local taxes by energy companies. Further, it allows certain other energy impact contributions to receive favorable tax treatment. With this type of legislation, local governments will be free to negotiate the best deal they can as to how much financial help will be required for a new development before they issue the necessary State and local permits needed for these developments. We certainly have no desire to become the Appalachia of the West. Senate 1919, we hope, will allow local governments to come together with energy companies providing a catalyst that will enable counties and communities to

maintain reasonable financial health. Better financial strength will lead to increased worker morale, less worker turnover, higher productivity, faster construction, and in the long run, we will experience lower overall development costs.

Gentlemen, I believe it's safe to say that the western slope, with its vast deposits of natural resources, has been discovered. It so happens that we in the west have been blessed with some extraordinary mineral deposits. The energy companies coming to western Colorado have assumed the responsibility to develop our reserves in order that the United States of America becomes as energy independent as possible. Wise and scrupulous develop of these deposits benefit all of the country, because it contributes to the total strength of our Nation. Left in the ground, these deposits contribute nothing.

Club 20 is supportive and committed to the orderly and timely development of our energy reserves so that we can help meet our Nation's energy needs. At the same time that development occurs, we want to do our best in addressing environmental concerns so that we may, to the best of our ability, maintain our quality of life.

To make Club 20's testimony at today's hearing as meaningful as it should be, a special executive committee meeting was held and a telephone survey of our board was made to determine support for the concept of Senate 1919. I am pleased to report that the Club 20 support is unanimous.

I would like to thank you for taking the time and understanding in helping us solve our impact problems here in the western slope of Colorado. Thank you very much.

Senator WALLOP. Do you have any questions, Bill?

Senator ARMSTRONG. Mr. Chairman, I don't have any questions, but I do have one comment for the record. And I want to particularly express to Sam, and Mr. Aspinall, my appreciation for their making the effort so that we have a documented record of total support of Club 20.

As everybody in the room knows, and as I would like to say for the record, Club 20 is a unique organization. It's unlike anything I know of in this State or elsewhere in terms of the kind of leadership it provides to a critically important region. There are a lot of regional groups of different kinds, but I don't know of any organization anywhere that has the clout and the vision and the wisdom that Club 20 has displayed over the years. And that's due, of course, primarily, to its leadership, two of the most important leaders here with us today.

I would like to ask, for the record, a question that I feel I know the answer to, but I would 'ike to have as part of this proceeding, if you would respond to it, Sam.

You mentioned wise and scrupulous development. You are dealing here with huge amounts of money, with large national and even international companies with a lot of money at stake. Have you and constituent components of Club 20 found that the people you are dealing with are scrupulous and concerned about how development is going to affect local communities, or is their disposition just to come in and run roughshod over everything?

Mr. SUPLIZIO. No. They have been very cooperative, they are not trying to run roughshod over us. We have found the companies we

have dealt with, the individual companies, to be cooperative, overly concerned, to say the least, of our impact, and of our problems. As a matter of fact, they offer, in many cases, sensible solutions that we cannot come up with. We find them to be cooperative, helpful, and willing to do the job in a proper way.

And we would like to see it stay on that course, with the harmony between the energy companies and ourselves and our citizens continue.

The chairman pointed out, and it's correct, many of the companies have already made contributions, contributions to help. I know of, just in particular, in Grand Junction, athletic facilities here that Exxon and other companies have contributed to help build and have a place for recreation for their people who are living in Mesa County and are here because of the energy industry.

They have all been helpful. And we would like to keep things going on that track. But I think that they can only go so far. They are going to need some help, because we can't keep leaning on them for everything that we need that is coming down the pike without some kind of consideration back to them.

Senator WALLOP. The question is good, because there is nothing coercive in this legislation. It relies on the cooperation between local governments and the energy companies causing the impact. And I would just point out, earlier attempts at impact legislation, since I have been in the Senate, which is not all that long, have all evolved around the Federal appropriations process. And the administrative costs of delivering the $120 million, which was the last figure we talked about, both to the communities, the local governments, the States involved, and the Federal Government, were such that that $120 million wasn't going to do very much good. And they were coercive, and their definitions were so tightly restricted, they may very well have been providing hospitals when schools were needed or some other kind of event.

So this does rely on that cooperation and, of course, on the ability of State law, local law, to bring cooperation.

Mr. ASPINALL. Mr. Chairman, may I add, also, I think more so than most communities in the United States, this area represented by Club 20 is very private-enterprise minded, as far as carrying on business activities is concerned, and we want to keep it that way as much as we can. This is one of the reasons why we desire to help business as they make their contribution.

Senator ARMSTRONG. Mr. Chairman, if I could just make one more point, again for the record, because I think it is important we have this on the record from these two gentlemen.

I have tired to persuade my colleagues in Washington that more than any other single factor, the limiting consideration in the developing of these tremendous resources that you spoke of, Sam, will not be economics or technology, but will be the impact on these local communities. While there is great support among county and city officials and residents in this area, the thing that they fear, the one thing that is really the dread in all of this, as we begin to extract these enormous energy resources, is how it will impact on quality of lives, what it will do to sewers, water, the environment, that kind of thing, and that in the long run these will be the con-

siderations that will really be determinative more than technological considerations, and science, and so on.

Is that a fair way for me to present this legislation in Washington? Is that a fair appraisal of the concerns?

Mr. SUPLIZIO. I would say, definitely. I would also say it's up to the people here to see that that's taken care of with proper planning and proper cooperation between the people who are doing the developing. And it can be done.

Senator ARMSTRONG. Thank you. Thanks very much. We could talk all afternoon, but we have a long list of witnesses.

Senator WALLOP. I would like to thank both of you very much for appearing here this afternoon.

And the next witness for the panel, the Honorable Flaven Cerise, county commissioner. And if I have mispronounced it, set me straight.

Mr. CERISE. Close enough.

Senator WALLOP. The Honorable Tim Schultz, county commissioner of Rio Blanco County, speaking for the Associated Governments of Northwest Colorado.

Mr. BRACH. My name is Louis Brach, mayor of Grand Junction. I'm supposed to be with them.

Senator WALLOP. I'm sorry. You were not on the list. You set them straight and me, too. I apologize for that.

Mr. BRACH. Well, I got my name in a little bit late.

STATEMENT OF LOUIS BRACH, MAYOR, CITY OF GRAND JUNCTION, COLO.

Mr. BRACH. My name is Louis Brach, presently mayor of Grand Junction. I want to thank you for the opportunity to testify today before your committee in support of Senate bill 1919, the proposed Energy Community Self-Help Act of 1981. We appreciate the efforts of Senator Armstrong and Senator Wallop for the introduction of this bill. As mayor of the city of Grand Junction, I would also like to express my appreciation for the conduct of these hearings here during the centennial year. Your field hearings have allowed a fair opportunity to representatives of State and local government to testify on some of the energy impact issues we face.

I also serve as chairman for the Associated Governments of Northwest Colorado, formerly known as the Colorado West Area Council of Governments, COG is what we generally call it. Therefore, I am today very specifically representing the cities and counties within the four northwest counties of Garfield, Mesa, Moffat, and Rio Blanco.

I would especially like to endorse and supplement the statements of Garfield County Commissioner Flaven Cerise and Rangely Mayor Peggy Rector, who today have represented the statewide association of counties and cities, respectively.

Senate bill 1919 has been introduced to amend the Internal Revenue Service Code of 1954 to assist in lessening the impact on communities of rapid growth, resulting from energy or resource development. I believe this is a necessary goal and that Senate bill 1919 will be of valuable help. This legislation, together with enabling State legislation, will encourage industry to make prepayment of

State and local taxes, both before normal taxes can pay for impacts and in communities not directly benefited by future tax increases.

It is important that this legislation allow States to authorize prepayments of State severance taxes in areas both directly and indirectly impacted by energy and development growth. This is the jurisdictional mismatch issue that we work together to resolve, so that taxes generated by energy development will help all of the communities impacted, not just the recipients of direct tax increases. This is one of the key reasons for our support of the bill.

The concept of the bill is based upon the premise that rapid population growth occurs prior to the generation of State and local taxes. This is especially true of large-scale projects requiring considerable construction employment prior to production.

Exhibit A to this statement is a map of the region, showing the location of proposed oil shale developments. And we brought some of them down and are handing them out. You can see that many of the developments will be concentrated in our four-county area of northwest Colorado. Exhibit B is a chart summarizing the potential population growth prepared by our regional association. I am also submitting for your committee staff a complete copy of the population projections. The projections for the four-county area are based upon three generalized scenarios. One, baseline growth; two, medium energy development; and three, high energy development.

EXHIBIT A

Shale Country

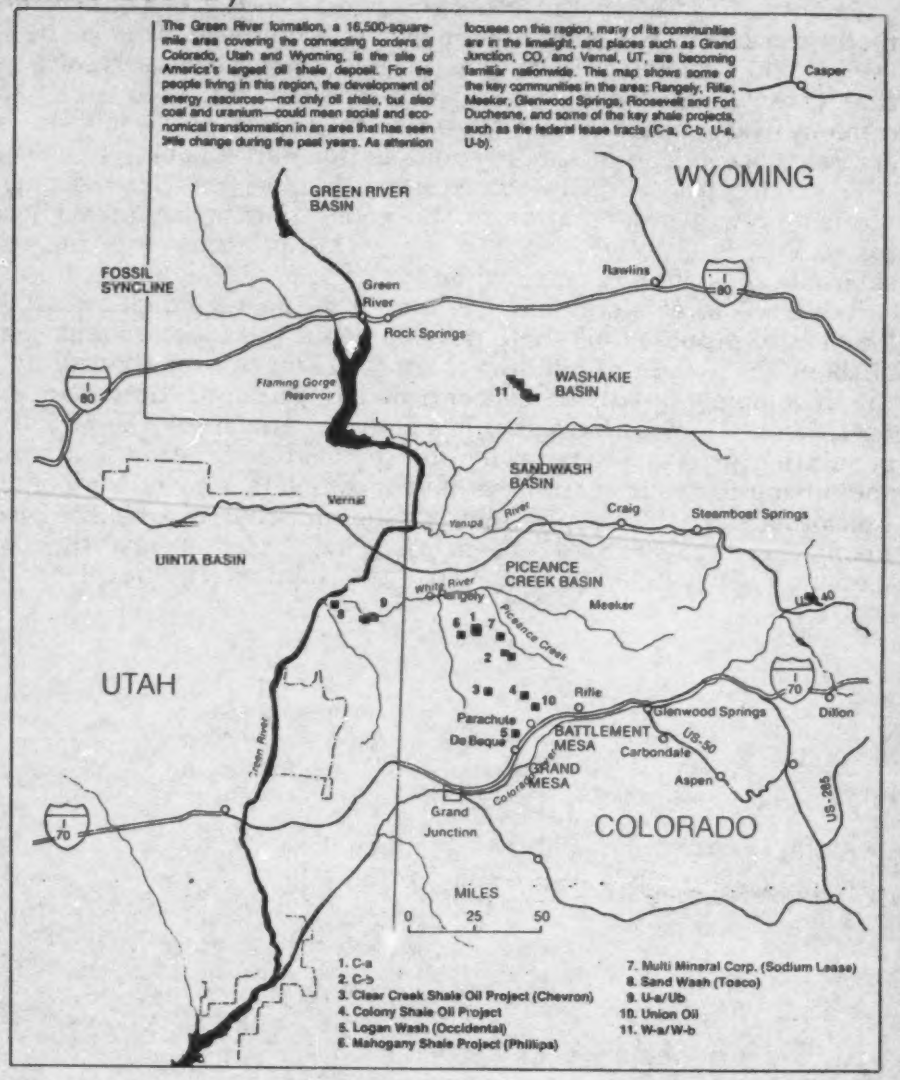
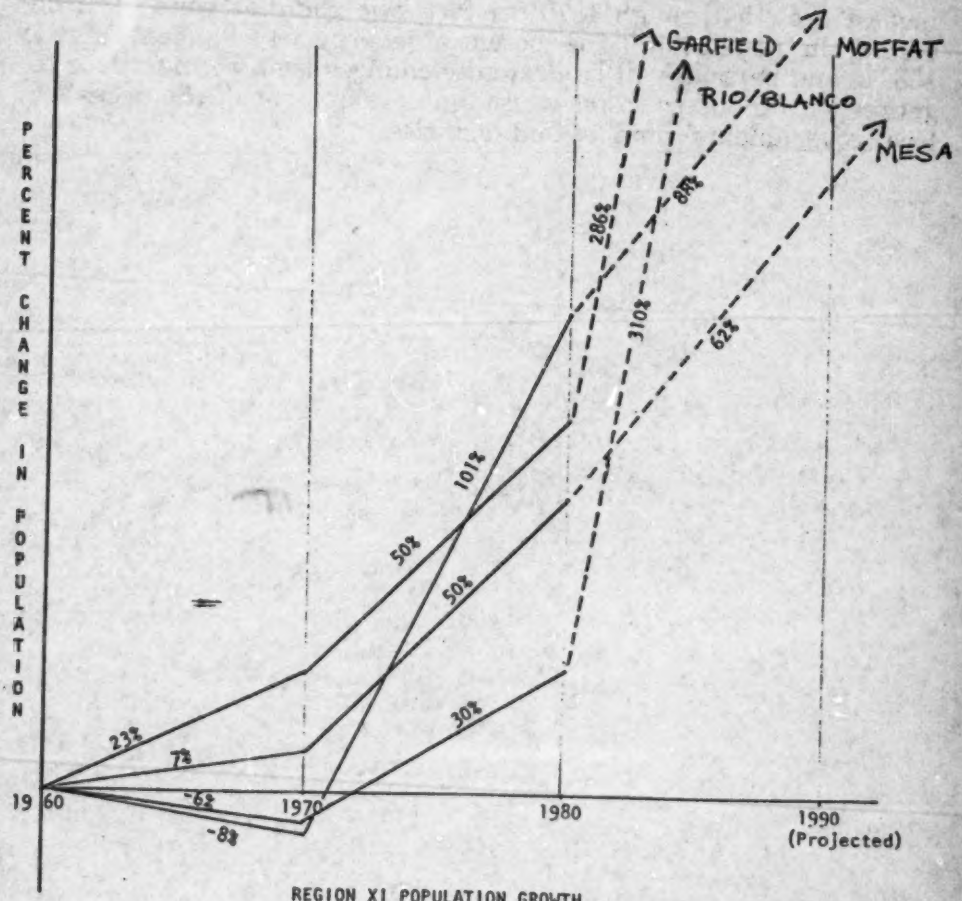

The Green River formation, a 16,500-square-mile area covering the connecting borders of Colorado, Utah and Wyoming, is the site of America's largest oil shale deposit. For the people living in this region, the development of energy resources—not only oil shale, but also coal and uranium—could mean social and economical transformation in an area that has seen little change during the past years. As attention focuses on this region, many of its communities are in the limelight, and places such as Grand Junction, CO, and Vernal, UT, are becoming familiar nationwide. This map shows some of the key communities in the area: Rangely, Rifle, Meeker, Glenwood Springs, Roosevelt and Fort Duchesne, and some of the key shale projects, such as the federal lease tracts (C-a, C-b, U-a, U-b).
Casper
WYOMING
GREEN RIVER BASIN
FOSSIL SYNCLINE
Green River
Rock Springs
Rawlins
80
Flaming Gorge Reservoir
WASHAKIE BASIN
SANDWASH BASIN
Vernal
Yampa River
Craig
Steamboat Springs
UINTA BASIN
PICEANCE CREEK BASIN
White River
Rangely
Meeker
Piceance Creek
40
UTAH
Rifle
70
Glenwood Springs
Dillon
Parachute
De Beque
BATTLEMENT MESA
US-50
Carbondale
GRAND MESA
Aspen
Colorado River
Grand Junction
COLORADO
US-285
Green River
MILES
0 25 50
1. C-a
2. C-b
3. Clear Creek Shale Oil Project (Chevron)
4. Colony Shale Oil Project
5. Logan Wash (Occidental)
6. Mahogany Shale Project (Phillips)
7. Multi Mineral Corp. (Sodium Lease)
8. Sand Wash (Tosco)
9. U-a/Ub
10. Union Oil
11. W-a/W-b

Exhibit C is a chart that more dramatically demonstrates the impact of potential growth we are facing in this region. On a percentage basis, each of our four counties have experienced only modest growth through 1970. In fact, two counties were even declining in population. The potential energy development of the 1980's, and beyond, will be dramatic changes that we must face together with industry to insure sound development of the necessary local governments' services and facilities.

EXHIBIT C



REGION XI POPULATION GROWTH

Prepared by: Assoc. Governments
of NW Colorado

The tax incentives that will be provided by Senate bill 1919 will be an important vehicle to encourage industry to assist local governments to meet the challenges of rapid population growth. We urge your enactment of this bill.

If you would turn to page 6, now, Senator Armstrong's bill, there is a couple of things in it I would like to comment on. I would like to say we, when I speak, and we include Mesa County and the city of Grand Junction, the roads, for example, I can take you to one place in the county where the energy companies have torn up a road that is going to cost the county taxpayers over $1 million to replace, and all the county got out of that was a permit to go up there.

Schools and education. Our school district passed a $20 million bond issue a year ago. And we estimated that within 5 years those schools that they are building now, they are building 10 new ones, will be filled.

Parks and recreation. The city of Grand Junction and Mesa County, together, have one swimming pool and no money to build anymore with. Now, we have had this problem for a long time, and since the population explosion we are way behind.

The housing, of course, is not quite so bad, but with the high interest rates, it will get worse.

Fire and police protection is a real concern of ours. We have added a shift of new policemen to our staff last year, and another one this year, trying to cover all of the problems that we are having.

The water supply of Grand Junction, as of today, is in fair shape with water, but by 1990, we are going to have to look for a new source of water. And our water is a long ways away from Grand Junction.

Waste water collection. I would like to mention that we are in the process now of building a $30 million sewer treatment plant. It is estimated by our engineers that within 5 years after completion of that plant, which is slated to be completed in 2 years, it will be overloaded and we will have to search for new money to enlarge it. We have got enough land and room there to do it with.

The people that are coming in, starting 1½ or even 2 years ago, I would venture to say that we have had more than 40 percent of the people that come to work in the energy jobs live in or near Grand Junction. Now, since the town of Parachute has been developed and near completion, our numbers have dropped down to about 28 percent, but even though they all live in Parachute and they all live in De Beque, Grand Junction is going to be the center of all activities, and especially recreation. Those people are going to come here on Friday nights, and the weekends, to spend their time. That adds to our problem of the police problems and the recreational problems.

That is all I have got to say. And I want to thank you very much.

[The prepared statement of Mayor Louis Brach follows:]

STATEMENT OF LOUIS BRACH, MAYOR, CITY OF GRAND JUNCTION, COLORADO, IN SUPPORT OF S. 1919 - THE ENERGY COMMUNITY SELF-HELP ACT OF 1981, BEFORE SUBCOMMITTEE HEARINGS OF THE U.S. SENATE FINANCE COMMITTEE, GRAND JUNCTION, COLORADO, APRIL 16, 1982

MR. CHAIRMAN:

THANK YOU FOR THE OPPORTUNITY TO TESTIFY TODAY BEFORE YOUR COMMITTEE IN SUPPORT OF SB 1919 - THE PROPOSED ENERGY COMMUNITY SELF-HELP ACT OF 1981. WE APPRECIATE THE EFFORTS OF SENATOR ARMSTRONG AND SENATOR WALLOP FOR THE INTRODUCTION OF THIS BILL.

AS MAYOR OF THE CITY OF GRAND JUNCTION I WOULD ALSO LIKE TO EXPRESS MY APPRECIATE FOR THE CONDUCT OF THESE HEARINGS HERE DURING OUR CENTENNIAL YEAR. YOUR FIELD HEARINGS HAVE ALLOWED A BETTER OPPORTUNITY FOR REPRESENTATIVES OF STATE AND LOCAL GOVERNMENT TO TESTIFY ON SOME OF THE ENERGY IMPACT ISSUES WE FACE.

I ALSO SERVE AS CHAIRMAN FOR THE ASSOCIATED GOVERNMENTS OF NORTHWEST COLORADO (FORMERLY THE COLORADO WEST AREA COUNCIL OF GOVERNMENTS). THEREFORE I AM TODAY SPECIFICALLY REPRESENTING THE CITIES AND COUNTIES WITHIN THE 4 NORTHWEST COLORADO COUNTIES OF GARFIELD, MESA, MOFFAT, AND RIO BLANCO.

I WOULD ESPECIALLY LIKE TO ENDORSE AND SUPPLEMENT THE STATEMENTS OF GARFIELD COUNTY COMMISSIONER FLAVEN CERISE AND RANGELY MAYOR PEGGY RECTOR WHO TODAY HAVE REPRESENTED THE STATEWIDE ASSOCIATION OF COUNTIES AND CITIES RESPECTFULLY.

S. 1919 HAS BEEN INTRODUCED TO AMEND THE INTERNAL REVENUE CODE OF 1954 TO ASSIST IN LESSENING THE IMPACT ON COMMUNITIES OF RAPID GROWTH RESULTING FROM ENERGY OR RESOURCE DEVELOPMENT. I BELIEVE THIS IS A NECESSARY GOAL AND THAT S. 1919 WILL BE OF VAULABLE HELP. THIS LEGISLATION TOGETHER WITH ENABLING STATE LEGISLATION WILL ENCOURAGE INDUSTRY TO MAKE PREPAYMENTS OF STATE AND LOCAL TAXES BOTH BEFORE NORMAL TAXES CAN PAY FOR IMPACTS AND IN COMMUNITIES NOT DIRECTLY BENEFITED BY FUTURE TAX INCREASES.

IT IS IMPORTANT THAT THIS LEGISLATION ALLOW STATES TO AUTHORIZE PREPAYMENTS OF STATE SEVERANCE TAXES IN AREAS BOTH DIRECTLY AND INDIRECTLY IMPACTED BY ENERGY AND DEVELOPMENT GROWTH. THIS IS THE "JURISDICTIONAL MISMATCH" ISSUE THAT WE WORK TOGETHER TO RESOLVE SO THAT TAXES GENERATED BY ENERGY DEVELOPMENT WILL HELP ALL COMMUNITIES IMPACTED NOT JUST THE RECIPIENTS OF DIRECT TAX INCREASES. THIS IS ONE OF THE KEY REASONS FOR OUR SUPPORT OF THE BILL.

THE CONCEPT OF THE BILL IS BASED UPON THE PREMISE THAT RAPID POPULATION GROWTH OCCURS PRIOR TO THE GENERATION OF STATE AND LOCAL TAXES. THIS IS ESPECIALLY TRUE OF LARGE SCALE PROJECTS REQUIRING CONSIDERABLE CONSTRUCTION EMPLOYMENT PRIOR TO PRODUCTION.

EXHIBIT A TO THIS STATEMENT IS A MAP OF THE REGION SHOWING THE LOCATION OF PROPOSED OIL SHALE DEVELOPMENTS. YOU CAN SEE THAT MANY OF THE DEVELOPMENTS WILL BE CONCENTRATED IN OUR 4-COUNTY AREA OF NORTHWEST COLORADO.

EXHIBIT B IS A CHART SUMMARIZING POTENTIAL POPULATION GROWTH PREPARED BY OUR REGIONAL ASSOCIATION. (I AM ALSO SUBMITTING FOR YOUR COMMITTEE STAFF A COMPLETE COPY OF THE POPULATION PROJECTIONS). THE PROJECTIONS FOR THE 4-COUNTY AREA ARE BASED UPON THREE GENERALIZED SCENARIOS:

I. BASELINE GROWTH

II. MEDIUM ENERGY DEVELOPMENT

III. HIGH ENERGY DEVELOPMENT

EXHIBIT C IS A CHART THAT MORE DRAMATICALLY DEMONSTRATES THE IMPACT OF POTENTIAL GROWTH WE ARE FACING IN THIS REGION. ON A PERCENTAGE BASIS EACH OF OUR 4 COUNTIES HAVE EXPERIENCED ONLY MODEST GROWTH THROUGH 1970. IN FACT TWO COUNTIES WERE EVEN DECLINING IN POPULATION. THE POTENTIAL ENERGY DEVELOPMENT OF THE 1980's AND BEYOND WILL BE DRAMATIC CHANGES THAT WE MUST FACE TOGETHER WITH INDUSTRY TO INSURE SOUND DEVELOPMENT OF THE NECESSARY LOCAL GOVERNMENTS SERVICES AND FACILITIES.

THE TAX INCENTIVES THAT WEILL BE PROVIDED BY S. 1919 WILL BE AN IMPORTANT VEHICLE TO ENCOURAGE INDUSTRIES TO ASSIST LOCAL GOVENRMENTS MEET THE CHALLENGES OF RAPID POPULATION GROWTH. WE URGE YOUR ENACTMENT OF THIS BILL.

I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

EXHIBIT B

REGION XI

GARFIELD MESA MOFFAT RIO BLANCO
POPULATION PROJECTION TOTAL

1977 SPECIAL CENSUS	101051
1980 ESTIMATE FOR JANUARY 1	119865
HOUSING UNIT COUNT	48365

End of Year	I	II	III
1980	108573	121935	
1981	110663	133443	
1982	112955	153099	
1983	114952	173662	
1984	117033	197193	
1985	119494	212542	245675
1990	130430	247086	275004
1995	141114	258836	
2000	152130	275547	360564

Prepared by: Associated Governments
of NW Colorado

Senator WALLOP Thank you, Mayor.

I think what we will do is to go through the panel and then if there are any questions we will ask our questions then.

Senator ARMSTRONG. Yes.

Senator WALLOP. Mr. Cerise.

STATEMENT OF FLAVEN CERISE, CHAIRMAN, GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS

Mr. CERISE. Chairman Wallop, Senator Armstrong.

As chairman of the Garfield County, Colo., Board of County Commissioners, and chairman of the Energy Policy Committee for Colorado Counties, Inc., it is a pleasure to present this statement in support of Senate 1919, the proposed Energy Community Self-Help Act of 1981.

I am also a member of the Board for the Associated Governments of Northwest Colorado, a member of the Local Government Energy Impact Advisory Committee for the State of Colorado, and chairman of the Energy Impact Subcommittee for the National Association of Counties.

I am here to endorse and comment on the concept of encouraging large-scale energy and development industries to prepay State and local taxes. Senate bill 1919, sponsored by Colorado Senator Bill Armstrong, as well as other bills, House Resolution 5403 sponsored by Congressman Hank Brown, and Senate 1731 sponsored by Senator Gary Hart, would amend the Internal Revenue Code of 1954 to allow large-scale energy companies to receive an immediate tax deduction for prepayments of State and local taxes and/or certain contributions to local governments used for local government services or facilities. The companies would be able to claim these tax deductions as a business expense in the year of the payment, rather than only as the taxes are due. This would be a proper incentive, which we support, in order to help mitigate the local government costs that occur prior to the generation of State and local taxes.

Counties in Colorado support this legislation as a preferable alternative to previously proposed energy impact grant-in-aid type programs in order for the Federal Government to meet its responsibilities to help mitigate the costs of local services and facilities necessary to support activities on Federal lands. Approximately 50 percent of the land in the four northwest Colorado counties is owned and administered by the Federal Government. There is a Federal responsibility for assistance, such as a program as proposed in Senate 1919. Such a program as a tax credit, would require virtually no Federal overhead or bureaucracy as compared to a grant-in-aid program.

Together with Federal mineral leasing royalties, State severance tax and local tax sources, this legislation will become an important vehicle to help meet overall socioeconomic costs associated with large-scale energy development. I believe that statement is true in Mesa Federal Savings' 1981 energy update publication that collectively, northwest Colorado energy development represents the single greatest construction project in the history of mankind.

While it promises unparalleled economic opportunities, it also promises unparalleled impacts.

The Colorado State Blue Ribbon Commission has estimated potential State and local government capital project needs at over $1 billion in the next 20 years. In addition, Mesa Federal Savings of Grand Junction estimates that $2 to $4 billion in potential capital housing financing needs will be required as well.

To meet these needs, the industry and related development will be generating significant State and local taxes, primarily State severance taxes and local sales, use and property taxes. For oil shale, current Colorado law provides severance taxes for up to 4 percent of the market value upon severance. However, the first 10,000 barrels per day of production are exempt and there is a 4-year phasing of the severance tax rate. This causes a considerable time lag before State taxes are generated. For local sale, use, and property taxes, there is also a considerable time lag due to the lengthy construction period for large-scale projects. Colorado law also limits the expansion or increase of these tax sources which are primarily geared toward financing ongoing operating and maintenance programs, rather than capital expenditures.

In addition to the prepayment credit of Senate bill 1919, it addresses a time lag problem, we also endorse the provision in the bill that qualifies contributions as a deductible business expense. We believe that contributions made to finance local services and facilities are a proper business expense for large-scale developments. A good example would be a road built by a company that would then be turned over to a State or local government for public use and maintenance. Another example would be the purchase of an ambulance that would be contributed to a county hospital or hospital district. These are examples of facilities and services provided for both the employees of a company that also serve the general public.

Property tax concern. Although we endorse the concept of allowing for the prepayment of local property taxes as one vehicle or tool in the overall financing of impact assistance, we must express an important concern to your committee.

It is essential that any prepayment of property taxes must have the agreement of the local government involved. We do not support authorization of unilateral prepayment of property taxes paid for by industry solely as a tax credit provision.

In Colorado, property tax revenues are the primary source for local government operating expenditures. Prepayment of property taxes for capital project purposes would thereby have an effect of converting future operating revenues to present capital expenditures. This should only be encouraged under specific circumstances that must be agreed to by the local government affected.

However, we are satisfied that adequate protection exists in Senate bill 1919, and Colorado law, that require local government agreement on any property tax prepayment. Attached to this statement is a full copy of senate bill 312, which was enacted last year to authorize property tax prepayments in this State. We understand that Utah has a similar law.

We are expressing this concern so that you understand our caution not to expect the property tax prepayment provision to be ac-

tively pursued, compared to the prepayment of severance tax or contribution provisions also included in Senate 1919. These are much preferred alternatives for local governments, since these revenue sources are already aimed primarily at capital expenditure and not operating costs.

Colorado law enacted last year, house bill 1395, also allows for the prepayment of State severance taxes for impact mitigation purposes. House bill 1395 establishes an adequate process for State, local governments, and industry cooperation to assure that such prepayments are utilized for critical impact mitigation. The Federal tax credit allowed for such prepayment will be an important vehicle to encourage this method of dealing with the up-front financing required by State and local governments.

Amendments or clarifications. We would like to see two amendments or clarifications for Senate 1919 to make it an even more acceptable and improved approach to impact mitigation.

Senate 1919 allows a tax credit for a State or local tax, fee, rent, or royalty. We would hope this provision would also allow industry tax credits for the prepayment of the State share of Federal mineral leasing royalties. Many of the proposed oil shale developments will occur on Federal lands and provide future mineral leasing royalties. We would hope that this important revenue source not be overlooked concerning the prepayment provisions encouraged by Senate 1919.

Mr. Tim Schultz, county commissioner from Rio Blanco County, Colo., has submitted testimony concerning another amendment that would improve the local financing capabilities of local government pertaining to use of payments. Such uses would be proper for regular payment of State and local taxes and should therefore qualify as uses under Senate 1919.

In conclusion, I would again indicate our appreciation for your hearings and concerns for our socioeconomic problems. Together with a cooperative effort, I believe we can meet the challenges we face in order to provide for sound energy development without undue sacrifices in this area.

We encourage your committee to approve this legislation.

That concludes my statement. I would be pleased to answer any questions that you may have.

[The prepared statement of Flaven Cerise follows:]

Assoc. Gov. of NW Colo

STATEMENT BY FLAVEN CERISE, CHAIRMAN, GARFIELD COUNTY COLORADO BOARD OF COUNTY COMMISSIONERS, IN SUPPORT OF S. 1919 BEFORE SUBCOMMITTEE HEARINGS OF THE U.S. SENATE FINANCE COMMITTEE, GRAND JUNCTION, COLORADO, APRIL 16, 1982.

MR CHAIRMAN:

AS CHAIRMAN OF THE GARFIELD COUNTY, COLORADO, BOARD OF COUNTY COMMISSIONERS AND CHAIRMAN OF THE ENERGY POLICY COMMITTEE FOR COLORADO COUNTIES, INC. IT IS A PLEASURE TO PRESENT THIS STATEMENT IN SUPPORT OF S. 1919, THE PROPOSED ENERGY COMMUNITY SELF-HELP ACT OF 1981.

IS AM ALSO A MEMBER OF THE BOARD FOR THE ASSOCIATED GOVERNMENTS OF NORTHWEST COLORADO, A MEMBER OF THE LOCAL GOVERNMENT ENERGY IMPACT ADVISORY COMMITTEE FOR THE STATE OF COLORADO, AND CHAIRMAN OF THE ENERGY IMPACT SUBCOMMITTEE FOR THE NATIONAL ASSOCIATION OF COUNTIES.

I AM HERE TO ENDORSE AND COMMENT ON THE CONCEPT OF ENCOURAGING LARGE SCALE ENERGY AND DEVELOPMENT INDUSTRIES TO PREPAY STATE AND LOCAL TAXES. S. 1919, SPONSORED BY COLORADO SENATOR BILL ARMSTRONG (AS WELL AS SIMILAR BILLS H.R. 5403 SPONSORED BY CONGRESSMAN HANK BROWN AND S. 1731 SPONSORED BY SENATOR GARY HART) WOULD AMEND THE INTERNAL REVENUE CODE OF 1954 TO ALLOW LARGE SCALE ENERGY COMPANIES TO RECEIVE AN IMMEDIATE TAX DEDUCTION FOR PREPAYMENTS OF STATE AND LOCAL TAXES AND/OR CERTAIN CONTRIBUTIONS TO LOCAL GOVERNMENTS USED FOR LOCAL GOVERNMENT SERVICES OR FACILITIES. COMPANIES WOULD BE ABLE TO CLAIM THESE TAX DEDUCTIONS AS A BUSINESS EXPENSE IN THE YEAR OF THE PAYMENT, RATHER THAN ONLY AS THE TAXES ARE DUE. THIS WOULD BE A PROPER INCENTIVE, WHICH WE SUPPORT, IN ORDER TO HELP MITIGATE THE LOCAL GOVERNMENT COSTS THAT OCCUR PRIOR TO THE GENERATION OF STATE AND LOCAL TAXES.

COUNTIES IN COLORADO SUPPORT THIS LEGISLATION AS A PREFERABLE ALTERNATIVE TO PREVIOUSLY PROPOSED ENERGY IMPACT GRANT-IN-AID TYPE PROGRAMS IN ORDER FOR THE FEDERAL GOVERNMENT TO MEET ITS RESPONSIBILITIES TO HELP MITIGATE THE COSTS OF LOCAL SERVICES AND FACILITIES NECESSARY TO SUPPORT ACTIVITIES ON FEDERAL LANDS. APPROX-IMATELY 50% OF THE LAND IN THE 4 NORTHWEST COLORADO COUNTIES IS OWNED AND

ADMINISTERED BY THE FEDERAL GOVERNMENT. THERE IS A FEDERAL RESPONSIBILITY FOR ASSISTANCE SUCH AS A PROGRAM AS PROPOSED IN S. 1919. SUCH A PROGRAM AS A TAX CREDIT, WOULD REQUIRE VIRTUALLY NO FEDERAL OVERHEAD OR BUREAUCRACY AS COMPARED TO A GRANT-IN-AID PROGRAM.

TOGETHER WITH FEDERAL MINERAL LEASING ROYALTIES, STATE SEVERANCE TAXES AND LOCAL TAX SOURCES, THIS LEGISLATION WILL BECOME AN IMPORTANT VEHICLE TO HELP MEET OVERALL SOCIOECONOMIC COSTS ASSOCIATED WITH LARGE SCALE ENERGY DEVELOPMENT. I BELIEVE THAT STATEMENT IS TRUE IN MESA FEDERAL SAVINGS 1981 ENERGY UPDATE PUBLICATION THAT "COLLECTIVELY, NORTHWEST COLORADO ENERGY DEVELOPMENT REPRESENTS THE SINGLE GREATEST CONSTRUCTION PROJECT IN THE HISTORY OF MANKIND. WHILE IT PROMISES UNPARALLELED ECONOMIC OPPORTUNITIES, IT ALSO PROMISES UNPARALLELED IMPACTS."

THE COLORADO STATE BLUE RIBBON COMMISSION HAS ESTIMATED POTENTIAL STATE AND LOCAL GOVERNMENT CAPITAL PROJECT NEEDS AT OVER $1 BILLION IN THE NEXT 20 YEARS. IN ADDITION, MESA FEDERAL SAVINGS OF GRAND JUNCTION ESTIMATES THAT $2 - $4 BILLION POTENTIAL CAPITAL HOUSING FINANCING NEEDS WILL BE REQUIRED AS WELL.

TO MEET THESE NEEDS THE INDUSTRY AND RELATED DEVELOPMENT WILL BE GENERATING SIGNIFICANT STATE AND LOCAL TAXES -- PRIMARILY STATE SEVERANCE TAXES AND LOCAL SALES, USE, AND PROPERTY TAXES. FOR OIL SHALE, CURRENT COLORADO LAW PROVIDES SEVERANCE TAXES FOR UP TO 4% OF THE MARKET VALUE UPON SEVERANCE. HOWEVER, THE FIRST 10,000 BARRELS PER DAY OF PRODUCTION ARE EXEMPT AND THERE IS A 4-YEAR PHASE-IN OF THE SEVERANCE TAX RATE. THIS CAUSES A CONSIDERABLE TIME LAG BEFORE STATE TAXES ARE GENERATED. FOR LOCAL SALE, USE, AND PROPERTY TAXES THERE IS ALSO A CONSIDERABLE TIME LAG DUE TO THE LENGTHY CONSTRUCTION PERIOD FOR LARGE SCALE PROJECTS. COLORADO LAW ALSO LIMITS THE EXPANSION OR INCREASE OF THESE TAX SOURCES WHICH ARE PRIMARILY GEARED TOWARD FINANCING ON-GOING OPERATING AND MAINTENANCE PROGRAMS RATHER THAN CAPITAL EXPENDITURES.

IN ADDITION TO THE PREPAYMENT CREDIT IN S. 1919 THAT ADDRESSES THIS "TIME-LAG" PROBLEM, WE ALSO ENDORSE THE PROVISION IN THE BILL THAT QUALIFIES "CONTRIBUTIONS" AS A DEDUCTIBLE BUSINESS EXPENSE. WE BELIEVE THAT CONTRIBUTIONS MADE TO FINANCE LOCAL SERVICES AND FACILITIES ARE A PROPER BUSINENESS EXPENSE FOR LARGE SCALE DEVELOPMENTS. A GOOD EXAMPLE WOULD BE A ROAD BUILT BY A COMPANY THAT WOULD THEN BE TURNED OVER TO A STATE OR LOCAL GOVERNMENT FOR PUBLIC USE AND MAINTENANCE. ANOTHER EXAMPLE WOULD BE THE PURCHASE OF AN AMBULANCE THAT WOULD BE "CONTRIBUTED" TO A COUNTY HOSPITAL OR HOSPITAL DISTRICT. THESE ARE EXMAPLES OF FACILITIES AND SERVICES PROVIDED FOR BOTH THE EMPLOYEES OF A COMPANY THAT ALSO SERVE THE GENERAL PUBLIC.

PROPERTY TAX CONCERN

ALTHOUGH WE ENDORSE THE CONCEPT OF ALLOWING FOR THE PREPAYMENT OF LOCAL PROPERTY TAXES AS ONE VEHICLE OR TOOL IN THE OVERALL FINANCING OF IMPACT ASSISTANCE, WE MUST EXPRESS AN IMPORTANT CONCERN TO YOUR COMMITTEE.

IT IS ESSENTIAL THAT ANY PREPAYMENT OF PROPERTY TAXES MUST HAVE THE AGREEMENT OF THE LOCAL GOVERNMENT INVOLVED. WE DO NOT SUPPORT AUTHORIZATION OF UNILATERAL PREPAYMENTS OF PROPERTY TAXES PAID FOR BY INDUSTRY SOLELY AS A TAX CREDIT PROVISION.

IN COLORADO, PROPERTY TAX REVENUES ARE THE PRIMARY SOURCE FOR LOCAL GOVERNMENT OPERATING EXPENDITURES. PREPAYMENT OF PROPERTY TAXES FOR CAPITAL PROJECT PURPOSES WOULD THEREBY HAVE AN EFFECT OF CONVERTING FUTURE OPERATING REVENUES TO PRESENT CAPITAL EXPENDITURES. THIS SHOULD ONLY BE ENCOURAGED UNDER SPECIFIC CIRCUMSTANCES THAT MUST BE AGREED TO BY THE LOCAL GOVERNMENT AFFECTED.

HOWEVER, WE ARE SATISFIED THAT ADEQUATE PROTECTIONS EXIST IN S. 1919 AND COLORADO LAW THAT REQUIRE LOCAL GOVERNMENT AGREEMENT ON ANY PROPERTY TAX PREPAYMENT. ATTACHED TO THIS STATEMENT IS A FULL COPY OF SB 312 WHICH WAS ENACTED LAST YEAR TO AUTHORIZE PROPERTY TAX PREPAYMENTS IN THIS STATE. WE UNDERSTAND THAT UTAH HAS A SIMILAR LAW.

WE ARE EXPRESSING THIS CONCERN SO THAT YOU UNDERSTAND OUR CAUTION NOT TO EXPECT THE PROPERTY TAX PREPAYMENT PROVISION TO BE ACTIVELY PURSUED COMPARED TO THE PREPAYMENT OF SEVERANCE TAX OR CONTRIBUTION PROVISIONS ALSO INCLUDED IN S. 1919. THESE ARE MUCH PREFERRED ALTERNATIVES FOR LOCAL GOVERNMENTS SINCE THESE REVENUE SOURCES ARE ALREADY AIMED PRIMARILY AT CAPITAL EXPENDITURE AND NOT OPERATING COSTS.

COLORADO LAW ENACTED LAST YEAR (HB 1395, SEE ATTACHED) ALSO ALLOWS FOR THE PREPAYMENT OF STATE SEVERANCE TAXES FOR IMPACT MITIGATION PURPOSES. HB 1395 ESTABLISHES AN ADEQUATE PROCESS FOR STATE, LOCAL GOVERNMENTS, AND INDUSTRY COOPERATION TO ASSURE THAT SUCH PREPAYMENTS ARE UTILIZED FOR CRITICAL IMPACT MITIGATION. THE FEDERAL TAX CREDIT ALLOWED FOR SUCH PREPAYMENTS WILL BE AN IMPORTANT VEHICLE TO ENCOURAGE THIS METHOD OF DEALING WITH THE UP-FRONT FINANCING REQUIRED BY STATE AND LOCAL GOVERNMENTS.

AMENDMENTS OR CLARIFICATION

WE WOULD LIKE TO SEE TWO AMENDMENTS OR CLARIFICATIONS FOR S.1919 TO MAKE IT AN EVEN MORE ACCEPTABLE AND IMPORVED APPROACH TO IMPACT MITIGATION.

S.1919 ALLOWS A TAX CREDIT FOR "A STATE OF LOCAL TAX, FEE, RENT, OR ROYALTY." WE WOULD HOPE THIS PROVISION WOULD ALSO ALLOW INDUSTRY TAX CREDITS FOR THE PREPAYMENT OF THE STATE SHARE OF FEDERAL MINERAL LEASING ROYALTIES. MANY OF THE PROPOSED OIL SHALE DEVELOPMENTS WILL OCCUR ON FEDERAL LANDS AND PROVIDE FUTURE MINERAL LEASING ROYALTIES. WE WOULD HOPE THAT THIS IMPORTANT REVENUE SOURCE NOT BE OVERLOOKED CONCERNING THE PREPAYMENT PROVISIONS ENCOURAGED BY S.1919.

MR. TIM SCHULTZ, COUNTY COMMISSIONER FROM RIO BLANCO COUNTY, COLORADO HAS SUBMITTED TESTIMONY CONCERNING ANOTHER AMENDMENT THAT WOULD IMPROVE THE LOCAL FINANCING CAPABILITIES OF LOCAL GOVERNMENTS PERTAINING TO USE OF PREPAYMENTS. SUCH USES WOULD BE PROPER FOR REGULAR PAYMENT OF STATE AND LOCAL TAXES AND SHOULD THEREFORE QUALIFY AS USES UNDER S. 1919.

IN CONCLUSION, I WOULD AGAIN INDICATE OUR APPRECIATION FOR YOUR HEARINGS AND CONCERNS FOR OUR SOCIOECONOMIC PROBLEMS. TOGETHER WITH A COOPERATIVE EFFORT I BELIEVE WE CAN MEET THE CHALLENGES WE FACE IN ORDER TO PROVIDE FOR SOUND ENERGY DEVELOPMENT WITHOUT UNDUE SACRIFICES IN THIS AREA.

WE ENCOURAGE YOUR COMMITTEE TO APPROVE THIS LEGISLATION.

THAT CONCLUDES MY STATEMENT. I WOULD BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE.

COLORADO WEST AREA

council of governments

REGION XI POPULATION PROJECTIONS

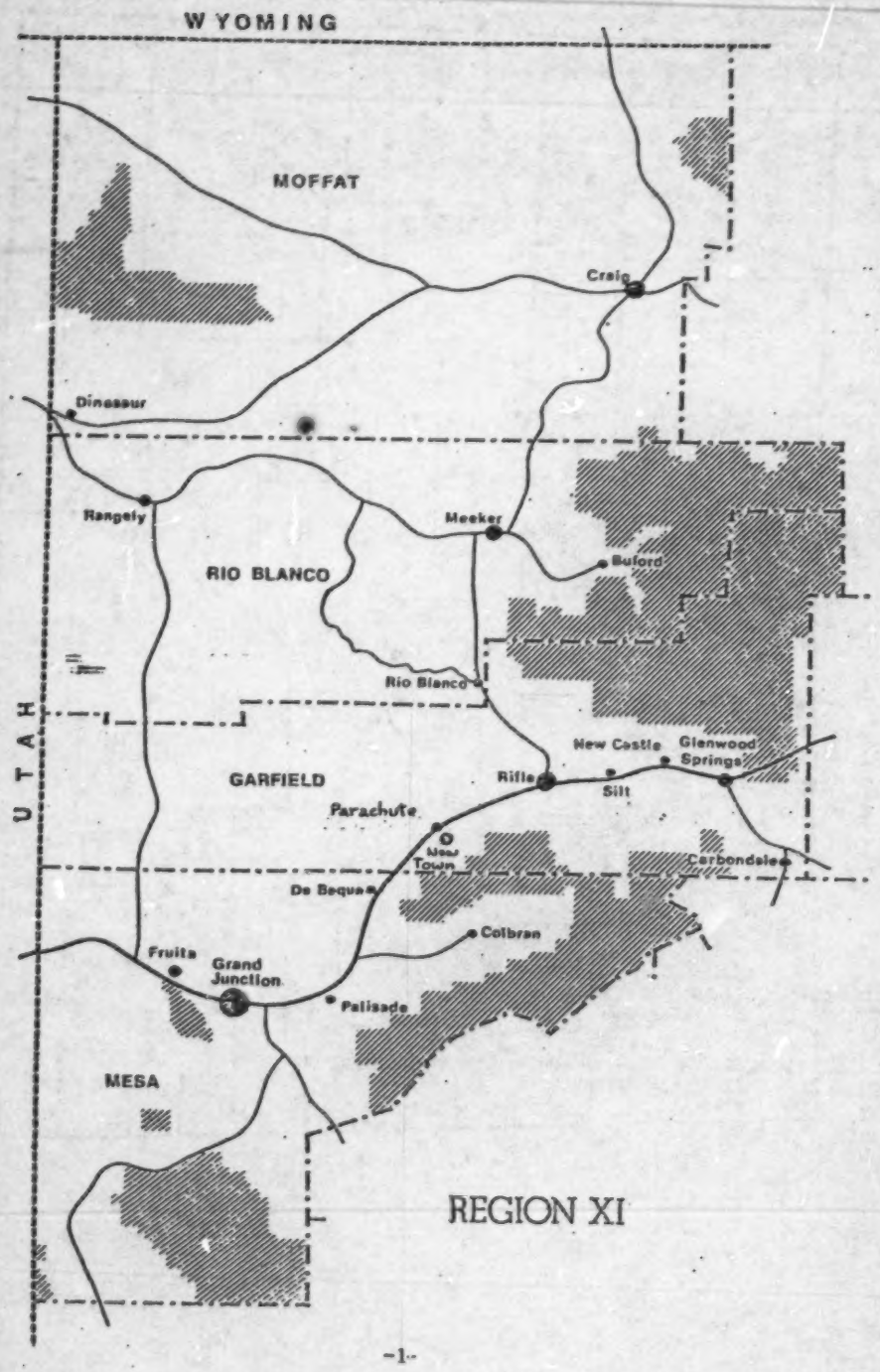
MUNICIPAL AND COUNTY POPULATION PROJECTIONS: 1980 - 2000

SEPTEMBER 1980

Robert G. Demos, Executive Director

John W. Johnson, Project Coordinator

Robert Robinson, Demographic Consultant



REGION XI

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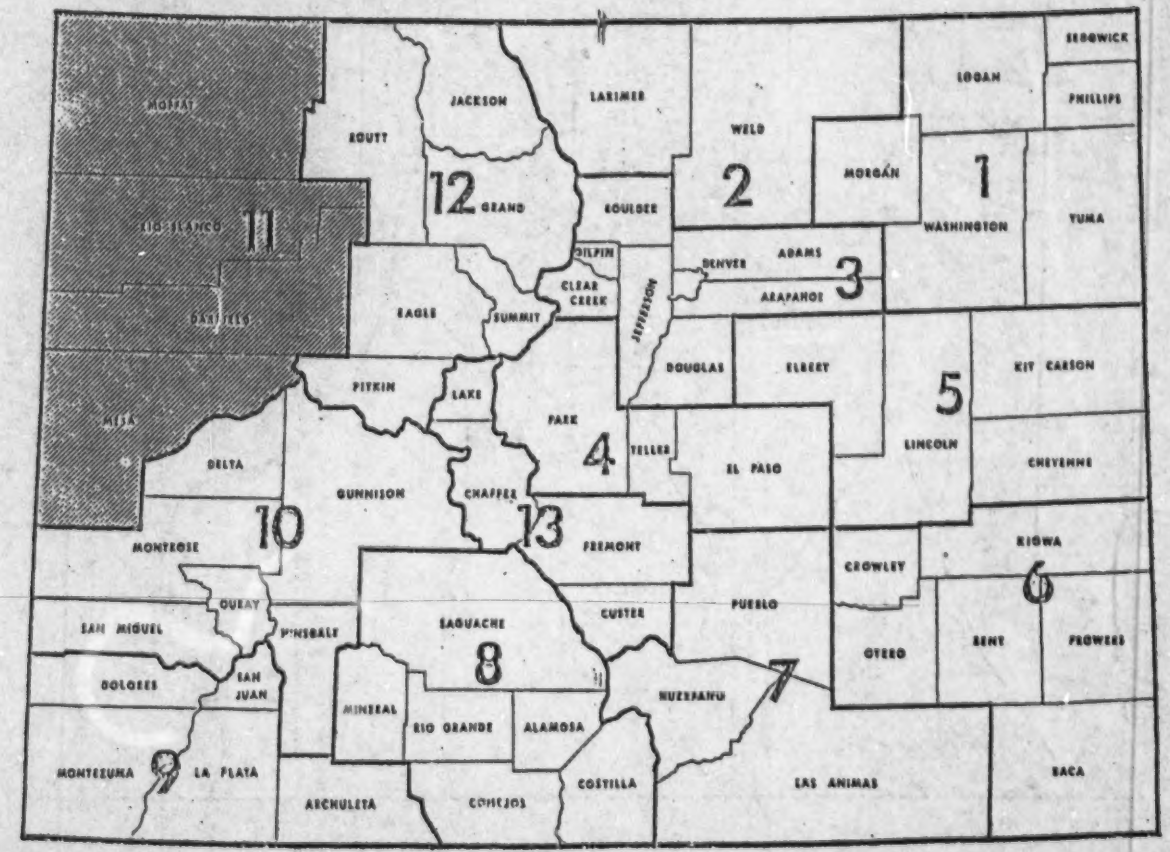
STATE PLANNING REGIONS



METHODOLOGY

REGION XI POPULATION PROJECTIONS

The population projections contained within this report were conducted by the Colorado West Area Council of Governments in July, 1980. The population projections were derived from a computer model which incorporated the following factors into its calculations:

- 1980 population estimates which are based upon preliminary U.S. Census housing counts with assumed vacancy rates of 3 to 4 percent and associated family multipliers for incorporated communities and counties.
- baseline (scenario I) population projections which reflect a revision of earlier baseline projections which were based upon 1960-1977 U.S. Census data. The revised baseline utilizes actual vital rates (births and deaths) and historical migration rates to obtain the baseline natural growth (without energy development) for the 1980-2000 period.
- energy company base worker employment projections with accompanying family multiplier of (2.71).
- base worker distributions assigned by community and county.
- non-base support worker multipliers (which range from .1 to 2.0) with accompanying family multipliers (3.04).
- cohert survival factors. *

The population data within this report includes: 1977 spec'al census, 1980 population estimates, preliminary U.S. Census housing counts, and population projections for each impacted county, community and balance of county (B.O.C.) within Region XI for the years 1980-1985, 1990, and the year 2000. There are three seperate population growth scenarios.

The population projection scenarios are as follows:

Scenario I - Normal population growth without energy development or other

* Seperate projections are available for elderly and school age children.

major short term growth factors.

Scenario II - Energy development projected with coal and oil shale development as is currently planned (see below for list of companies).

Scenario III - Energy development projected with energy development at a high level of production of shale oil, 450,000 barrels a day by 1990 and 640,000 barrels a day by the year 2000; and a coal production level of 26 million tons per year by 1985 and 34 million tons per year by the year 2000.

Scenario III is based upon the President's proposed program for synthetic fuel development with production levels for shale oil as noted above. The Scenario III population figures have been accepted by the U.S. Environmental Protection Agency and provide the basis for the revised and officially approved 208 EPA/BEA population projections for the State of Colorado.

It should be noted, however, that Scenario II has been selected by the Colorado West Area Council of Governments Board as the Region's officially endorsed population projections. Scenarios I and III are provided in order to provide a reference point and a range of population growth. Scenario II is selected because it reflects the stated plans of the various energy companies which, either are actively involved in development operations, or are actively pursuing development plans in Region XI.

Both Scenarios II and III of this report reflect the total population actually needed (both basic and non-basic support) to adequately accommodate anticipated energy development and secondary services. Therefore, Scenarios II and III in essence reflect what the population should be for the area to properly function and not necessarily what might actually occur. Actual population levels could vary greatly depending upon a multitude of variables, the main variable being the energy companies actual work force scheduling, and in particular, the level of effort, program development, and commitment of

resources to adequately support the level of growth required to meet energy company production schedules. Unless major accommodation efforts are continued and expanded, serious problems can be anticipated from 1981 through 1984 for the Region as a whole and particularly in the Rifle/Meeker growth impacted area.

The energy company work force projections which were utilized in the preparation of Scenario II population projections include companies with expansion and/or development plans and are as follows:

C-a Rio Blanco Oil Shale Project (Gulf and Standard)
C-b Cathedral Bluffs Shale Oil Company (Occidental and Tenneco)
Colony Oil Shale Project (Arco/Exxon and TOSCO)
Union Oil Shale Project
Superior Oil Shale and Minerals Project
Snow Mass/Anshutz Coal
Colowyo Coal
Northern Minerals Coal
New Coal (Leasing and Expansions as proposed as part of BLM's Hams-Fork Green River E.I.S.)
Ancillary Basic Response Development in Mesa County
Colorado Ute Power Plant
Utah International
GEX/CMC Coal
Sheridan Coal
Energy Fuels
Mid-Continent Mesa II
Moon Lake (Power Plant and Coal)
Storm King

The population projections contained within this report are an update of previously prepared growth monitoring efforts conducted by the Colorado West Area Council of Governments. Region XI of Colorado contains the counties of Rio Blanco, Garfield, Mesa, and Moffat. According to the 1977 Special Census, the Region's population was 101,051. Based upon "preliminary" 1980 U.S. Census housing data, there are 48,365 housing units in Region XI. At a three percent vacancy rate and by applying the 2.55 family multiplier (46,914 occupied units x 2.55), an unofficial CWACOG population estimate for Region XI produces a figure of 119,865 people in January 1980. This figure compared to the 101,051 1977

Special Census figure is illustrative of the type of growth the Region has been experiencing in only the beginning phases of oil shale development. With major oil shale development activities, the Region's population is anticipated to nearly double by 1985. Most of the growth will occur in the Grand Junction area of Mesa County. However, it is also anticipated that Garfield County, and in particular the City of Rifle, will experience the most dramatic growth by 1985. The already heavily growth impacted Moffat County/Craig area will continue to experience growth pressures, while Rio Blanco County, currently the smallest in population, could more than quadruple in population by 1985.

These projections clearly point to the need for extensive preparation in order to deal with the tremendous growth pressures generated by large scale energy developments. Each county within Region XI in conjunction with the Colorado West Area Council of Governments has initiated a comprehensive impact mitigation process. The impact mitigation process includes county and municipal comprehensive planning, capital improvements programming, and an impact committee structure comprised of county impact advisory groups and county core groups which assess community and county needs and resource requirements. The purpose of this report is to provide the best information available in facilitating the impact mitigation process within Region XI.

SPECIAL NOTE:

If you should have any questions concerning these population projections, please feel free to contact the Colorado West Area Council of Governments, Box 351, Rifle, CO 81650, (303/625-1723). Additional information can be made available on an individual basis, including such information as 1977 Census data, economic data, current population projections for elderly and school aged children, CWACOG Growth Monitoring Reports of previous years, and background information utilized in the compilation of this report.

REGION XI

GARFIELD MESA MOFFAT RIO BLANCO
POPULATION PROJECTION TOTAL

1977 SPECIAL CENSUS		101051
1980 ESTIMATE FOR JANUARY 1		119865
HOUSING UNIT COUNT		48365

End of Year	I	II	III
1980	108573	121935	
1981	110663	133443	
1982	112955	153099	
1983	114952	173662	
1984	117033	197193	
1985	119494	212542	245675
1990	130430	247086	275604
1995	141114	258836	
2000	152130	275547	360564

GARFIELD COUNTY

1977 SPECIAL CENSUS		18800
1980 ESTIMATE FOR JANUARY 1		22162
HOUSING UNIT COUNT		9139

End of Year	I	II	III
1980	19985	23013	
1981	20524	27837	
1982	21264	36494	
1983	21709	45440	
1984	22247	53265	
1985	23178	55694	66126
1990	25823	64379	70967
1995	29731	68854	
2000	33911	75566	97873

CARBONDALE

1977 SPECIAL CENSUS	1644
1980 ESTIMATE FOR JANUARY 1	2171
HOUSING UNIT COUNT	829

End of Year	I	II
1980	2171	2344
1981	2366	2614
1982	2761	3169
1983	2861	3271
1984	3061	3474
1985	3661	4076
1990	4761	5189
1995	7261	7702
2000	9986	10440

GLENWOOD SPRINGS

1977 SPECIAL CENSUS	4091
1980 ESTIMATE FOR JANUARY 1	5099
HOUSING UNIT COUNT	2103

End of Year	I	II	III
1980	5099	5613	
1981	5175	5866	
1982	5321	6285	
1983	5395	6664	
1984	5465	6849	
1985	5532	6849	8098
1990	5833	7065	9493
1995	6096	7316	
2000	6385	7631	12841

NEW CASTLE

1977 SPECIAL CENSUS	543
1980 ESTIMATE FOR JANUARY 1	613
HOUSING UNIT COUNT	253

End of Year	I	II	III
1980	565	773	
1981	573	871	
1982	581	1025	
1983	588	1199	
1984	596	1317	
1985	603	1294	1449
1990	633	1515	1800
1995	664	1530	
2000	706	1598	2075

RIFLE

1977 SPECIAL CENSUS	2244
1980 ESTIMATE FOR JANUARY 1	3540
HOUSING UNIT COUNT	1352

End of Year	I	II	III
1980	2316	3933	
1981	2341	5661	
1982	2367	8492	
1983	2394	12516	
1984	2421	18113	
1985	2448	19573	22060
1990	2585	23710	23710
1995	2723	22934	
2000	2870	23687	25159

PARACHUTE

1977 SPECIAL CENSUS	377
1980 ESTIMATE FOR JANUARY 1	403
HOUSING UNIT COUNT	144

End of Year	I	II	III
1980	389	448	
1981	394	882	
1982	399	1364	
1983	405	1723	
1984	410	1865	
1985	416	1703	6142
1990	448	2508	11099
1995	482	2523	
2000	516	2618	16742

BATTLEMENT MESA

NEW COMMUNITY

End of Year	I	II	III
1980	0	589	NA
1981	0	2078	
1982	0	5499	
1983	0	8443	
1984	0	9170	
1985	0	9555	
1990	0	10644	
1995	0	12252	
2000	0	13979	

SILT

1977 SPECIAL CENSUS 859

1980 ESTIMATE FOR JANUARY 1 894
HOUSING UNIT COUNT 338

End of Year	I	II	III
1980	896	1079	
1981	912	1268	
1982	927	1547	
1983	943	1943	
1984	960	2297	
1985	977	2361	3392
1990	1066	2595	3621
1995	1152	2626	
2000	1232	2750	3934

GARFIELD ROC

End of Year	I	II	III
1980	8517	8602	
1981	8731	8975	
1982	8948	9491	
1983	9163	10059	
1984	9374	10558	
1985	9581	10738	20359
1990	10537	11608	20097
1995	11393	12426	
2000	12256	13320	26171

MESA COUNTY

1977 SPECIAL CENSUS	66848
1980 ESTIMATE FOR JANUARY 1	78793
HOUSING UNIT COUNT	32187

End of Year	I	II	III
1980	70687	79540	
1981	71992	82730	
1982	73301	90319	
1983	74614	99218	
1984	75921	111787	
1985	77221	118745	120156
1990	83428	132308	143854
1995	89231	137842	
2000	95128	145198	190484

GREATER GRAND JUNCTION *

GRAND JUNCTION CITY LIMITS	
1977 SPECIAL CENSUS	25398
1980 ESTIMATE FOR JANUARY 1	28670
HOUSING UNIT COUNT	12444

End of Year	I	II
1980	56829	63826
1981	57908	66191
1982	58988	71943
1983	60067	78998
1984	61136	89144
1985	62193	94817
1990	67170	106040
1995	71781	110334
2000	76506	116216

* Figures include Grand Junction and surrounding unincorporated suburban area.

COLLBRAN

1977 SPECIAL CENSUS	293
1980 ESTIMATE FOR JANUARY 1	321
HOUSING UNIT COUNT	160

End of Year	I	II
1980	324	324
1981	340	340
1982	356	356
1983	372	372
1984	388	388
1985	404	404
1990	484	484
1995	565	565
2000	645	645

DE BEQUE

1977 SPECIAL CENSUS	264
1980 ESTIMATE FOR JANUARY 1	324
HOUSING UNIT COUNT	135

End of Year	I	II *	III
1980	268	325	
1981	272	428	
1982	276	657	
1983	280	872	
1984	285	945	
1985	290	795	1753
1990	315	757	1754
1995	339	772	
2000	361	807	2240

* Does not include possible Chevron Oil Shale project.

FRUITA

1977 SPECIAL CENSUS	2328
1980 ESTIMATE FOR JANUARY 1	3034
HOUSING UNIT COUNT	1032

End of Year	I	II
1980	2435	3810
1981	2473	4315
1982	2512	5413
1983	2551	6620
1984	2592	8509
1985	2633	9532
1990	2851	10884
1995	3030	11098
2000	3324	11634

PALISADE

1977 SPECIAL CENSUS	1083
1980 ESTIMATE FOR JANUARY 1	1437
HOUSING UNIT COUNT	680

End of Year	I	II	III
1980	1435	1687	
1981	1438	1704	
1982	1442	1889	
1983	1447	1996	
1984	1452	2157	
1985	1458	2261	3445
1990	1492	2354	9937
1995	1528	2416	
2000	1573	2488	13020

MESA BOC

End of Year	I	II
1980	10120	9892
1981	10301	10092
1982	10483	10417
1983	10669	10732
1984	10856	11032
1985	11047	11340
1990	12000	12273
1995	12903	13172
2000	13764	14053

MOFFAT COUNTY

1977 SPECIAL CENSUS	10303
1980 ESTIMATE FOR JANUARY 1	12820
HOUSING UNIT COUNT	4895

End of Year	I	II
1980	12577	13271
1981	12745	13646
1982	12910	14284
1983	13071	14668
1984	13230	15335
1985	13385	18711
1990	15112	24696
1995	15770	26527
2000	16413	28299

CRAIG

1977 SPECIAL CENSUS	6677
1980 ESTIMATE FOR JANUARY 1	9041
HOUSING UNIT COUNT	3329

End of Year	I	II
1980	9041	9735
1981	9191	9939
1982	9338	10345
1983	9481	10788
1984	9622	11298
1985	9758	13446
1990	10398	18881
1995	10951	20046
2000	11512	21216

DINOSAUR II

1977 SPECIAL CENSUS	347
1980 ESTIMATE FOR JANUARY 1	348
HOUSING UNIT COUNT	133

End of Year	I	II	III
1980	366	366	
1981	372	525	
1982	378	643	
1983	384	592	
1984	390	615	
1985	396	636	931
1990	427	680	774
1995	460	740	
2000	492	801	897

MOFFAT BOC

End of Year	I	II
1980	3170	3170
1981	3182	3182
1982	3194	3296
1983	3206	3308
1984	3218	3422
1985	4023	4629
1990	4287	5135
1995	4353	5741
2000	4409	5282

RIO BLANCO COUNTY

1977 SPECIAL CENSUS	5100
1980 ESTIMATE FOR JANUARY 1	6090
HOUSING UNIT COUNT	2144

End of Year	I	II	III
1980	5324	6111	
1981	5402	9230	
1982	5480	12002	
1983	5558	14343	
1984	5635	16806	
1985	5710	19392	40501
1990	6067	25703	35881
1995	6382	25613	
2000	6678	26484	44302

MEEKER

1977 SPECIAL CENSUS	1848
1980 ESTIMATE FOR JANUARY 1	2606
HOUSING UNIT COUNT	950

End of Year	I	II	III
1980	1886	2615	
1981	1900	3650	
1982	1914	4861	
1983	1928	7031	
1984	1943	9077	
1985	1958	10693	1674
1990	2044	14179	14179
1995	2134	14104	
2000	2220	14548	16593

RANGELY

1977 SPECIAL CENSUS	1871
1980 ESTIMATE FOR JANUARY 1	1960
HOUSING UNIT COUNT	741

End of Year	I	II*	III
1980	2006	2026	
1981	2050	4049	
1982	2093	5517	
1983	2136	5602	
1984	2178	5919	
1985	2218	6826	14088
1990	2387	9539	10237
1995	2526	9428	
2000	2666	9774	12708

* Figures include the Moon Lake (Deseret) Coal Mine and Power Plant being located in the Rangely area.

RIO BLANCO BOC

End of Year	I	II	III
1980	1432	1470	
1981	1452	1531	
1982	1473	1624	
1983	1494	1710	
1984	1514	1810	
1985	1534	1873	9668
1990	1636	1985	11519
1995	1722	2081	
2000	1792	2162	15001

Senator WALLOP. Thank you very much, Commissioner. Commissioner Schultz.

STATEMENT OF TIM SCHULTZ, COUNTY COMMISSIONER OF RIO BALANCO COUNTY, COLO.

Mr. SCHULTZ. Thank you, Chairman Wallop. Senator Armstrong. I appreciate the opportunity to visit with you about the Senate bill and also, personally, thank you for the time to come to western Colorado and hear from local officials, local citizens, concerning some of the problems that we have.

Rio Blanco County, in particular, I think might serve as an example for some of the impact problems that we are facing. We have, in our county, 75 percent of the world's known oil shale reserves, 60 percent of the Colorado oil and gas come from Rio Blanco County, significant coal reserves are in the county, as well as uranium. In our one county, there is more known energy reserves than any other similar-sized area in the world. So we are facing what could be enormous impacts in terms of development. You are well aware of that, we are aware of that.

We have 6,000 people living in the county, and that is a tremendous change that those people are faced with. And it's the type of thing we talk about almost daily with our constituents, the three commissioners, and the mayor, Peggy Rector from Rangely, and the mayor from Meeker, and how we will deal with the development.

I can come to you today and wholeheartedly say we are ready to accept the challenge to accept this energy growth. The people in the area are ready to accept that challenge, but there are some tradeoffs in another area that I think they would like to see; that is, they realize if we have to have a resource need, energy dependence, and if Rio Blanco County is that particular spot in the United States where we need to gather that energy from, we are willing to accept that, but they are not eager, and their elected officials are not eager to see the constituents have to pay the increased burden through taxes to help subsidize that development. So we have, I think, carried that message clearly to the State levels, we have carried it to the levels of Washington. The State legislature in Colorado has been very responsive to that, and has passed two pieces of legislation, prepayment of ad valorem taxes and prepayment of severance taxes.

Additionally, this year, Senate bill 111 was passed by the Colorado Legislature, and signed by the Governor into law, and it created the county capital improvement trust fund, and the financing issuance of revenue bonds and other obligations to be payable solely from such county capital improvement trust funds. What this bill did, it allowed counties that had surplus money, such as Rio Blanco, where the oil shale trust fund has come into our county, to put those moneys into a capital improvements trust fund, invest those moneys, and into revenue bonds to do our projects, we could then pay the revenue bonds off from the revenue stream generated from the trust funds. It is a leveraging technique that will enable us over the course of time to use that money three or four times over.

What I would like to ask that you consider today in your bill would be to work closely with the National Association of Counties, who I have contact with, and who is wiling to work with you, on looking at the arbitrage restrictions of the Internal Revenue Service, and possibly including in this law some language that would allow local impacted governments the opportunity to not come strictly under some of the arbitrage interpretations as currently are in existence in the IRS regulations. And what I'm asking for there is we would be able to receive some of these moneys in advance from the industry companies for the prepayment of taxes, we would be able to invest those moneys at market rates, be able to go out and do tax-free financing, paying off with the interest we would receive, with about approximately a 4-percent spread between what we can receive in market rates and what tax-free financing is.

It would not only give us a much more flexible tool for reusing those funds in the future as we pay them off, but if we have a severe crunch, we would be able to leverage those dollars and turn what would be a $3 or $4 million initial payment into $5 or $6 million paid off, of course, over 5 or 6 years. It's something I think needs close scrutinizing. The National Association of Counties hopes that you will consider that. We will be submitting some detailed amendments prepared by some tax counsel and tax attorney to the committee within the next couple of weeks. Thank you very much for the opportunity to testify.

Senator WALLOP. Thank you very much, Commissioner Schultz. And thank you all for some very creative testimony. I'm sure Bill may have some questions.

Senator ARMSTRONG. Mr. Chairman, I don't know how we are going to be able to get across to somebody who is not directly familiar with the problem the magnitude of these population growths. I do have a question I want to ask about the data which has been submitted by the mayor. He summed up the projected four-county growth. And as you can see from the table, there is a baseline figure of possible growth from now to the turn of the century, and a mid-term or a middle-course growth number, and then I guess what's labeled as item No. 3 or Roman numeral III, which is a higher projection.

Can you tell us where you think we are on that curve? How do you feel this is working out, Mr. Mayor? Are you in a position, really, to talk about that?

Mr. BRACH. I think those numbers are close. And I might state that we are just barely on the bottom of the curve, just starting up.

Senator ARMSTRONG. I was about to ask, and I see since I have begun to ask my question that you have handed up some additional information to respond, I think, to the question I was going to ask about Rio Blanco County. I was going to put to the commissioner this question: You have 6,000 people up there. How much of this enormous projected growth is going to occur in your town? If you were just going to guess with us today or project for us today, what is the population of your county going to be 20 years from now?

Mr. SCHULTZ. That's a very hard question to answer.

A large portion of the people that have worked on the oil shale projects in our county have lived in Garfield County, but as they are experiencing growth through the Colony project, the projec-

tions you see there are anywhere from 15,000 to 20,000 people in each of the towns. So we are looking at a potential, assuming rapid energy development, of 30,000 to 50,000 people in the next 20 years in our area.

Senator ARMSTRONG. And even to the extent that some of the people who work in the area may not actually live there, you nonetheless would be in the position of providing some of the local government services for people who were actually not a part of your permanent population?

Mr. SCHULTZ. The county roads they travel back and forth on, a number of county services, sheriff protection, police protection, these types of things the county has to provide.

Another problem we have to face is the jurisdictional mismatch problem, people crossing the county lines, coming out of Garfield County, a substantial portion of those people possibly living in Mesa County. The same with a project in Utah right across the border from Rangely, the UA tract, a significant amount of people living in the Rangely area where the entire tax base is in the State of Utah.

Senator ARMSTRONG. Commissioner Schultz, I think it would be of interest, although it perhaps only bears in a tangent way to the bill, if you would take a moment, and Commissioner Cerise would take a moment, and tell us what all this does to the workload of a member of the board of county commissioners. Ordinarily, the job of being a commissioner in a county of 6,000 would have a fairly relaxed day-to-day responsibility. I'm curious; I think it would be of interest just to know, because I assume that your experience, and that of Commissioner Cerise, would be quite enlightening to a lot of people.

Mr. SCHULTZ. I think Flaven and I are fairly similar in the amount of hours we spend at the job. We have a commissioners' meeting in the county 1 day a week, and that's usually our off days. The rest of the time it's very much a full-time job, much in excess of 40 hours a week. A great amount of those hours are spent in Denver during the session, particularly I or Flaven, I think, were in Denver at least once a month for 2 or 3 days, in Washington once for 1 or 2 days, to testify on a bill or work with various Department of Energy people, things like this. It's become a very, very demanding job, far beyond the one commissioner meeting a week that many people perceive that our obligations would be.

Senator WALLOP. It probably pays real well.

Senator ARMSTRONG. That's just what I was going to ask next.

Mr. CERISE. We have scheduled meetings 2 days a week, we meet Monday and Tuesday regularly every week. Just like Tim said, you know, we are practically on the job all the time.

This week has been full—5 days, usually.

Senator ARMSTRONG. What about the inter-government relationships? Have you been able to establish, among the affected counties, a framework to work cooperatively among the counties and other governmental units?

Mr. SCHULTZ. We have an excellent relationship among the counties and cities inside the counties.

The oil shale trust fund is probably the classic example, where we have $47 million we could have fought over left in the oil shale

trust fund, and we were able to sit down and decide on how that money should be split up, based on what our best estimates of where the need was. And that resulted in the biggest share of that money going to Garfield County, although the money came from Rio Blanco County; the next largest share to Rio Blanco; and then Mesa County receiving a share; and Moffat County receiving the smallest share.

Senator WALLOP. Do you have a thing like we have in Wyoming where you can share police departments with the municipality or county or two counties?

Mr. CERISE. No.

Mr. SCHULTZ. No. We can't enter into agreements like that. We can contract with the city to rent a police unit or the counties can contract back and forth to do road work, and police protection and these types of things.

Mr. CERISE. We have signed an intercounty government contract with Mesa County, because the oil shale development that helps in Garfield certainly does impact Mesa County. And any future permitting, they will be involved in a joint review process, and this is a process where it's a long, drawn-out process, but all of the concerns are brought to the table right off the bat, and it's up to them to address these concerns, and that way there is no surprises at the end. And, of course, Mesa County would have, in our particular case, Mesa County would have as much to say as we do, even though we would issue the permits, they would still have the right to be involved.

Senator ARMSTRONG. Commissioner, I appreciated your observations about the possibility of looking into the mineral leasing moneys, and we will do that, and also about the arbitrage suggestion.

And I think, Mr. Chairman, for the record, I should make a point of noting that Representative Jim Robb, who was the sponsor of the House bill which was referred to, I believe by—I have forgotten now whether the mayor brought it up or the commissioners did—but in any case, the legislation which has been adopted by the Colorado Legislature was sponsored by Mr. Robb, and he was invited to be here today and was unable to do so, and has sent his regrets and expresses his support for this legislation. I think this is meaningful because he really was one of the pioneers of this, having put together the package in the State legislature that brings us to this step.

One last question, if I could. And I don't ask this to put you on the spot about it, but is it possible we could get the National Association of Counties to endorse this bill?

Mr. CERISE. Sure.

Mr. SCHULTZ. I think we can. I have visited with them today on it, and we are having a western interstate regional meeting, which is the 13 Western States' annual convention week after next in Billings, Mont. And we have put this legislation on the agenda for the tax and finance and public land steering committees, and from that we should have, hopefully, a resolution and guidance for in support of this.

Senator WALLOP. That would really be great. That would be a very meaningful endorsement.

Senator ARMSTRONG. I have just one question, and I toss it out for anybody to respond to. I think you, Commissioner Cerise, brought the subject up.

But do you feel that you have sufficient power to resist prepayment of taxes which you may have no need for at a given moment at a time?

Mr. CERISE. We will have to have—there is just no way we could spend large dollars today. And, you know, I don't believe that that was meant as a tax credit to be prepaid in that manner.

Senator ARMSTRONG. I don't think so. My question, I think, is whether that's a State issue or whether it ought to be addressed in this bill. But, hopefully, it's a State issue and that some way or another you don't have to accept the prepayment of taxes if you can't identify a need for it.

Mr. CERISE. That isn't correct, no.

Senator WALLOP. The other thing, of course, if adequate planning exists in county levels, the counties that have had the kind of growth that you are facing, to sort of weigh in the balance the advantages of having some prepayment of taxes and future need for a—you don't have that yet?

Mr. CERISE. No. You know, I really feel that we have done an awful lot of planning in western Colorado, among all four of these counties. I think that we have spent a tremendous amount of time, and through the Associated Counties of Government, formerly the COG, I think that we have. Probably Senator Armstrong remembers when we had to go over there and beg for the money out of the oil shale trust fund, I think we are learned an awful lot, and I think these counties are pretty sophisticated.

Senator WALLOP. You know, it's interesting. We, in our State, have had different kinds of impacts, and have dealt with them so differently.

It's my belief that Wyoming may not, at the moment, be able to use all of the prepayment provisions of this, but that isn't for us to decide for them, that's for them to decide for themselves.

Senator ARMSTRONG. Mr. Chairman, a bit of historical trivia. When I was in the State legislature, which I was for a number of years, I believe the most important single legislation I had anything to do with was a constitutional amendment relating to the powers of local government. And a number of years ago, our State did make available a series of quite sophisticated mechanisms which counties and municipalities can adopt to cope with problems as they emerge. And I tell you this, if we had the kind of constitutional provisions today that we had 20 years ago, there would be absolutely no way you could cope with these problems. You would have to incorporate the whole county in order to get city powers to even begin to keep up with them.

So I do think our State, at least, is well equipped to deal with these issues.

Mr. CERISE. I would agree. Certainly in comparison to Wyoming, the local government has a lot more control here. Wyoming, with their Siting Act, of course, does a lot of permitting at the State level. And I think we have a lot more power right down here at the local level than you would have in Wyoming.

Senator WALLOP. Yes. Well, we do have. Of course, the one thing I asked you about, which is a very nice tool, that Joint Powers Act, where you can set up governmental units that cross ordinary political boundaries, whether they happen to be school districts or county lines or city boundaries, but each of us have had our different problems, and will continue to probably learn from the others' ability to do something. You can probably do a lot of things we can't. We probably have done, having had to, done a lot of things which you are just on the threshold of.

Mr. CERISE. We toured several places in Wyoming. Evanston was one, Gillette was another, prior to our getting involved here, before we were really involved. Also we toured work camps in North Dakota.

I think, by being able to go talk to these different people, we had a better idea of what they were up against, and they told us what they thought their pitfalls had been, and it was certainly helpful to us.

Senator WALLOP. Do you have any more?

Senator ARMSTRONG. No. Thank you. That was most interesting testimony.

Senator WALLOP. Thank you, too, Mayor. And I apologize for not having you on our list.

Mr. BRACH. I was late, I wasn't here, and late getting in here.

Senator WALLOP. Next is Mr. Bill McDermott, chairman of the Community Affairs Subcommittee of the Committee on Oil Shale of the Rocky Mountain Oil & Gas Association, accompanied by Allen Randle, a vice president of Union Oil and Mr. Lyman Spencer, a tax counsel.

Senator ARMSTRONG. Mr. Chairman, while they are making those arrangements, may I submit for the record a statement on this matter from the Governor's office, by Jerry Smith, impact field representative from the Colorado Department of Local Affairs?

The statement will be placed in the record at the appropriate place.

[The prepared statement of Mr. Smith follows:]

TESTIMONY BEFORE THE

SENATE SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

ON S. 1919

Jerry Smith

Impact Field Representative
Office of Impact Assistance
Colorado Department of Local Affairs
Grand Junction, Colorado

Grand Junction, Colorado

April 16, 1982

Senator Armstrong and Senator Wallop, I would like to express our appreciation for your time and effort in holding field hearings such as this to hear directly from Coloradoans and their elected officials about the problems they face and tools they need to deal with rapid growth due to energy development. We commend you, as we have commended Senator Gary Hart on S. 1731 and S. 1732, for your leadership and recognition of a federal responsibility and role in impact mitigation.

Colorado and other western states have long recognized the community development problems which can occur when growth outstrips the ability of government to adequately deal with that growth. We remain confident in our ultimate long-range ability to solve those problems. Solutions, however, depend upon early recognition of problem areas, a mutual commitment among all the parties at interest to cooperate in problem-solving activities and finally having appropriate and adequate tools to deal with the problem.

For the past eight years, Colorado, its local governments and the proponent industries have labored to accomplish impact mitigation. The state has passed severance tax legislation, developed prepayment provisions for both severance and property taxes, and redistributed our share of federal mineral lease and royalty payments, all for impact mitigation. Local governments have undertaken Herculean planning and development programs, formed impact mitigation teams and, in many instances, indebted themselves to pay for growth-required improvements. Industry too has risen to the task of mitigating energy impacts. They have joined in local and state efforts to identify impact problems accurately. In many instances they have cooperated in large-scale community development projects.

Notwithstanding this level of cooperative and analytic effort, the costs of mitigation programs and the uncertainty surrounding much of Colorado's energy development future continue to leave substantial gaps in the ability of the affected entities to provide adequate public services.

We have put forth substantial testimony indicating a logical role for federal assistance in rapid energy growth communities. S. 1919 addresses a component of that role. Colorado supports the concept of providing tax incentives which encourage the energy industry to prepay taxes and make direct contributions to assist communities in providing much-needed public facilities. This legislation would augment Colorado's present statutory framework which provides appropriate and similar incentives designed to promote the concept of energy-related growth paying its way. We welcome this initiative and are particularly encouraged by those components of S. 1919 which provide incentives for industry to participate in the guarantee of state and local government debt obligations.

Although this bill, if enacted, will provide substantial incentives, we would like to suggest that it could be strengthened by authorizing prepayments of mineral lease and royalty fees for migitation purposes. Ideally these prepayments would be credited equally against both the federal and the state share of the royalties. We would also encourage consideration be given to the benefits of incorporating a certification process, such as found in S. 1731, to determine eligibility as well as consistency with state and local planning efforts, especially those with multi-jurisdictional implications.

To reiterate, we have gone a long way towards problem identification and establishing the cooperative agreements and planning mechanisms which lead to problem-solving. S. 1919 embraces an appropriate conceptual tool for impact mitigation which would increase state and local capacities to close the gap between failure and success.

Again, thank you for this opportunity to present Colorado's comments.

Senator ARMSTRONG. I also have—let me withhold this, perhaps this is not the time.

Senator WALLOP. Mr. McDermott, please proceed.

STATEMENT OF WILLIAM F. McDERMOTT, CHAIRMAN OF THE COMMUNITY AFFAIRS SUBCOMMITTEE OF THE COMMITTEE ON OIL SHALE OF THE ROCKY MOUNTAIN OIL & GAS ASSOCIATION

Mr. MCDERMOTT. Thank you, Mr. Chairman, Senator Armstrong. My name is Bill McDermott. I am chairman of the Community Affairs Subcommittee of the Committee on Oil Shale of the Rocky Mountain Oil & Gas Association. I live here in Grand Junction. I am employed by Occidental Oil Shale, and have been deeply involved in both the planning and the development of the socioeconomic impacts of the oil shale industry, and the western slope. I appreciate this opportunity to present our views to you today on Senate bill 1919.

The Committee on Oil Shale is make up of some 27 companies, all of whom have an interest in the development of this Nation's oil shale reserves. As you are aware, development is only in its infant stages, and with the first anticipated commercial production being more than a year away. Just as the first project will be dealing with technologies that at this point have been tested solely on an experimental basis, so are the industry and the State and the local governments, learning how to work together in addressing socioeconomic impacts.

One such recent effort is the cumulative impact task force. The direct cost of over one-half million dollars is funded on a shared basis. In addition, thousands of man-hours have been expended by both industry and Government and their staffs in completing this process. It will establish a dynamic model by which a project's impact costs and revenues can be identified and assessed. The first use of this model is currently being completed, and a snapshot of current energy development, its impact and benefits in the six-county area should be available this summer.

We believe that such working relationships have been beneficial to all concerned. There has been a strong commitment by all of the parties to deal with the socioeconomic impacts. Indeed, we have been dealing with these for several years, as you have heard from the county commissioners, and we have expended several hundred

million dollars in oil shale trust funds, State department of local affairs funds and direct contributions for expenditures by the industry.

It should be pointed out that the funding and expenditure needs for impact have both a timing gap and a jurisdictional mismatch. And you have heard a little bit about that already. But preliminary studies indicate that any revenue gap which may exist is of short duration. That is, it is in the first few years of the project construction that the shortfalls of revenue versus need seems to appear. Once projects reach commercial production, tax revenues in significant amounts from property, severance, use, sales taxes, and others should be more than ample to meet the community needs.

The jurisdictional mismatch occurs when a project, and the tax base, is located outside the area being impacted. And Tim Schultz certainly gave you some examples of that, Rio Blanco County and Rifle, and Garfield County and Grand Junction. The uncertainty and rules present under Federal tax law with regard to addressing the problem of the timing gap by the use of prepayment and the jurisdictional mismatch problem by the use of impact assistance contributions will impede impact assistance.

The Committee on Oil Shale commends the Colorado Legislature for its actions in the area of impact assistance during the 1981 session. Two steps taken during that session greatly assisted all of the communities and industry in Colorado in working on the timing problem. These steps were, No. 1, the expansion of the severance tax credit provisions and, No. 2, the enactment of a prepaid property tax measure. Federal tax law, however, is at best unclear, and under many cases, may adversely affect impact mitigation. Examples of the problems faced by a company in connection with attempts to deduct contributions to public entities have been expressed in numerous court decisions. The case of *Sutton* v. *The Commissioner,* in 1971, is typical of this interpretation; the court denied it as a charitable contribution.

The situation with the development of oil shale is similar to that which applied in *Sutton* in that in the initial development of the industry, impact assistance contributions will be required as a condition of obtaining permits necessary for the shale operation. The tax risk associated with such requirements is mainly apparent from the results in *Sutton* and also, in *H. G. Fenton Materials* v. *The Commissioner,* 1980, where costs associated with obtaining the permit were considered a cost of the permit and could not be expensed.

This uncertainty of tax treatment and the desire of the members of the Committee on Oil Shale to avoid the significant amount of time and effort that many of our members and the local governments are expending on attempting to address the near term solutions to socioeconomic impact requirements, led us to support the clarification which Senate bill 1919 provides.

The new section 467 addresses the problem presented under Federal tax law where a taxpayer may not deduct a prepaid tax until the year due the tax governing body. Currently, where a company and a local government should decide mutually that a prepayment of taxes would be beneficial, the company would be unable to

deduct those prepayments related to a period beyond the current tax year.

Senate bill 1919 also would add section 196 to the Internal Revenue Code, which section would eliminate the uncertainty present under existing law with regard to the impact assistance contributions.

Before I close, we do have three minor housekeeping amendments to offer, which we believe are consistent with the intent of the legislation. We recommend the work "current" be inserted between the words "a" and "deduction" in the first line of section 196(b)(1)(B), in order to clarify that the section is intended to provide a current deduction for contributions which otherwise may be deductible in future years. We also recommend that the parenthetical phrase "including planning" be inserted in the next to last line of section 196(b)(3), between the words "qualified public facilities and services" for the activities listed in the subparagraphs under that section.

Finally, we would recommend an additional subparagraph J be added to section 196(b)(3) for human services, in order to insure that activities for the public benefit which are not specifically covered in the other specific paragraphs are included.

In conclusion, I would like to experss my appreciation, and the appreciation of the Committee on Oil Shale to both of you Senators and to Representatives Brown and Kramer for addressing the area of socioeconomic impact assistance in Senate bill 1919, and the companion House bill 5403 in the manner that you have. We believe the provisions of these bills are completely consistent with the President's goal of returning decisionmaking activities to the local level. And certainly, to the extent that the measures simplify the process of granting impact assistance for the development of oil shale, other synthetic fuels, minerals and related coal-fired electric generating facilities, they assist in addressing the Nation's energy requirements.

Thank you for your time. I would be happy to try to answer any questions you may have.

[The prepared statement by William F. McDermott follows:]

TESTIMONY

for the

ENERGY COMMUNITY SELF HELP ACT OF 1981

(SB 1919)

Grand Junction, Colorado

April 16, 1982

By

COMMITTEE ON OIL SHALE
ROCKY MOUNTAIN OIL AND GAS ASSOCIATION

William F. McDermott
Occidental Oil Shale, Inc.

Good afternoon. My name is Bill McDermott. I am Chairman of the Community Affairs Subcommittee of the Committee on Oil Shale of the Rocky Mountain Oil and Gas Association. I live here in Grand Junction. I'm with Occidental Oil Shale, Inc. and have been deeply involved in both the planning and development of the socioeconomic aspects of the oil shale industry and the Western Slope. I appreciate this opportunity to present our views on S.B. 1919, the Energy Community Self Help Act of 1981.

The Committee on Oil Shale is comprised of 27 companies, all of whom have an interest in the development of this nation's oil shale deposits. As you are aware, development is only in its infant stages, with the first anticipated commercial production more than a year away. Just as the first projects will be dealing with technologies which to this point have been tested solely on an experimental basis, so are the industry and state and local governments learning how to work together in addressing socioeconomic impact.

One such recent effort is the Cumulative Impact Task Force. The direct cost of over 1/2 million dollars is funded on a shared basis. In addition, thousands of manhours have been expended by both industry and government and their staffs in completing this process. It will establish a dynamic model by which a projects' impact costs and revenues can be identified and assessed. The first use of this model is currently being completed, a snapshot of current energy development and its impact and benefit in the six county area should be available this summer.

We believe that such working relationships have been beneficial to all involved. There has been a strong commitment by all the parties to deal with socioeconomic concerns. Indeed we have been dealing with these concerns for the past several years and have expended several hundred million dollars in Oil Shale Trust Funds, State Department of Local Affairs funds and direct contributions or expenditures by the energy industry.

It should be pointed out that the funding and expenditure needs for impact have both a timing gap and a jurisdictional mismatch. Preliminary studies indicate that any revenue gap which may exist is of short duration. That is, it is in the first few years of project construction that shortfalls of revenue versus needs seem to appear. Once projects reach commercial production, tax revenues in significant amounts from property, severance, income, sales and other areas should more than meet community needs.

The jurisdictional mismatch occurs where a project (and tax base) is located outside the area being impacted, i.e., Rio Blanco County and Rifle -- projects in Garfield County and Grand Junction. The uncertainty

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and rules present under federal tax law with regard to addressing the problem of the timing gap by the use of prepayment and the jurisdictional mismatch problem by the use of impact assistance contributions will impede impact assistance.

The Committee on Oil Shale commends the Colorado legislature for its actions in the area of impact assistance taken during the 1981 session. Two steps taken during that session have greatly assisted all communities and industry in Colorado in working on the timing problem. These steps were (1) the expansion of the severance tax credit provisions; and (2) the enactment of a prepaid property tax measure. Federal tax law however is at best unclear, and under many cases may adversely effect impact mitigation. Examples of the possible problems faced by a company in connection with attempts to deduct contributions to public entities have been expressed in numerous Court decisions. The case of Sutton v. Commissioner, 57 Tax Court 239 (1971) is typical of this interpretation; the Court denied a charitable contribution.

The situation with the development of oil shale is similar to that which applied in Sutton in that in the initial development of the industry, impact assistance contributions will be required as a condition of obtaining permits necessary for a shale operation. The tax risk associated with such requirements is plainly apparent from the result in Sutton and also in H. G. Fenton Materials v. Commissioner, 74 Tax Court 584 (1980), where costs associated with obtaining the permit were considered a part of the permit and could not be expensed.

This uncertainty of tax treatment and the desire of the members of the Committee on Oil Shale to avoid the significant amounts of time and effort which many of our members and local governments have experienced in attempting to address near term solutions to socioeconomic impact requirements, lead us to support the clarification which S.B. 1919 provides.

New Section 467 addresses the problem presented under federal tax law where a taxpayer may not deduct a prepaid tax until the year due the tax governing body. Currently, where a company and a local government would decide that prepayment of taxes would be beneficial, the company would be unable to deduct prepayments related to a period beyond the current tax year.

S.B. 1919 would also add Section 196 to the Internal Revenue Code, which section would eliminate the uncertainty present under existing law with regard to impact assistance contributions.

Before I close, we do have three minor housekeeping amendments to offer which we believe are consistent with the intent of the legislation. We recommend the word "current" be inserted between the words "a" and "deduction" in the first line of Section 196(b)(1)(B) in order to clarify that the Section is intended to provide a current deduction for contributions which otherwise may be deductible in future years. We also

recommend that the parenthetical phrase "(including planning)" be inserted in the next to last line of Section 196(b)(3) between the words "services" and "provided" to include planning within the phrase "qualified public facilities and services" for the activities listed in the subparagraphs under Section 196 (b)(3).

Finally, we would recommend an additional subparagraph (J) be added to Section 196(b)(3) for human services in order to insure that activities for the public benefit which are not specifically covered in the other specific subparagraphs are included.

In conclusion, I would like to express my appreciation and the appreciation of the Committee on Oil Shale to both of you Senators and to Representatives Brown and Kramer for addressing the area of socioeconomic impact assistance in S.B. 1919 and the companion H.R. 5403 in the manner you have. We believe the provisions of these bills are completely consistent with the President's goal of returning decision-making activities to the local level. And certainly to the extent that the measures simplify the process of granting impact assistance for the development of oil shale, other synthetic fuels, minerals and related coal fired electric generating facilities, they assist in addressing the nation's energy requirements.

Thank you for your time. I would be happy to try to answer any questions you may have.

Senator WALLOP. Thank you very much, Mr. McDermott. And we will go, as we have, and go through the panel and then ask questions.

Next would be Mr. Spencer.

Mr. SPENCER. Excuse me. Mr. Randle.

Senator WALLOP. Excuse me.

Mr. MCDERMOTT. Mr. Spencer is here as a technical adviser to me.

Senator WALLOP. It doesn't matter to me. I was wondering what was the matter with me. It was the list, not my head, yet.

Please.

STATEMENT OF ALLEN RANDLE, VICE PRESIDENT OF OIL SHALE OPERATIONS OF THE ENERGY MINING DIVISION OF UNION OIL CO. OF CALIFORNIA

Mr. RANDLE. Thank you, Chairman Wallop. Good afternoon, Senator Armstrong.

My name is Allen Randle, vice president of Oil Shale Operations of the Energy Mining Division of Union Oil Co. of California.

The planning of an operation of Union's oil shale facility is within my area of responsibility. And I would add that I'm also, like Bill, a resident of Grand Junction and working out of our offices here in Grand Junction. I appreciate this opportunity to offer comment on Senate bill 1919.

As you may be aware, Union has been a pioneer in the development of oil shale. Our 10,000-barrel-per-day facility has an anticipated startup date of mid-1983 and will be the first operational commercial-sized facility in the country. This facility represents a substantial commitment on behalf of the company to the development of this energy resource.

Union has recognized a need for expanding housing and public services to provide for growing populations drawn by oil shale development. We are making every effort to assist in handling this growth. The company has constructed housing and is working with local officials in financing services, such as schools, human services, administrative services, and public safety. We have expended or committed nearly $60 million through 1983 to ease social and economic impacts in Garfield County. Once our phase 1 facilities are on the tax rolls, the taxes and other revenues received by the State, county, and local communities will more than offset the cost of services the population influx will require.

There is, however, uncertainty at present with regard to many of our community assistance efforts under current Federal tax law. This uncertainty affects our ability to determine the actual cost of these impact mitigation measures to the company and their effect on project economics. Senate bill 1919 would eliminate this uncertainty and create an atmosphere in which it would be easier for Union to work with local communities in the resolution of problems that concerns us all. By providing certainty with regard to the treatment of our efforts during the initial period of development, we would receive a significant planning benefit.

We welcome the efforts of the sponsors of Senate bill 1919 and the companion House bill 5403.

I would like to thank you for the opportunity to appear here before you and would answer any questions that you have.

Senator WALLOP. Let me ask you a question.

Mr. SPENCER. I'm just here to answer technical questions.

Senator WALLOP. In your estimation, how would the provisions in 1919 mesh with the increased charitable deduction for corporations in the Tax Act of last year?

Mr. SPENCER. Senator Wallop, if I may address that question.

The increase in the Economic Recovery Act of 1981, and the provisions of Senate bill 1919, are not related, in that the charitable contribution rules under 170, it is our interpretation that the Internal Revenue Service will take the position that these are not charitable contributions, that the companies receive a benefit or a direct benefit, that is, they are not made out of the benevolence of the company, and therefore, would not be permitted as a charitable contribution under code section 170.

So since we do not feel that they would be permitted, then the increase from 5 to 10 percent would not affect these contributions.

Senator WALLOP. Well, I was just—that's what I suspected the answer was. I thought maybe the mayors and the county commissioners, and others, would like to know that there is still an area for charitable contribution that might well be made for other reasons.

Mr. SPENCER. Yes.

Senator WALLOP. But which might have an effect of mitigating the impact of some kind of human need and may not be as clearly definable as the provisions in our bill are.

Bill, do you have some questions?

Senator ARMSTRONG. Mr. Chairman, the testimony of Mr. Randle points out that his company has expended $60 million through 1983 or committed and expended up to $60 million. And I want to

just pin down that we are talking about money for the purpose of human needs and social and economic impact, and that we are not talking about what it is costing for the actual oil shale operation itself.

Mr. RANDLE. That's correct, Senator.

Senator ARMSTRONG. We are not talking about worldwide, we are talking about Garfield County?

Mr. RANDLE. We are talking about expenditures in Garfield County. And the classes of expenditures have included, housing is the primary one, but have extended to sewer and water facilities in Parachute, law enforcement, both in the town and county, construction of a new middle school building; that type of service is what we have been supporting with that amount of money.

Senator ARMSTRONG. One of the reasons why I have been interested in pushing this legislation, Mr. Chairman, is the fact that the companies involved really have been good citizens about this. And from my own observations over a long period of time, they have really learned from the mistakes of earlier generations where companies came to town and exploited an area, made a mess of things, and then left it to somebody else to try to straighten things up. They have been, in the best sense of that overworked term, good corporate citizens, and have really done a remarkable job.

One of the questions that we are frequently asked, gentlemen, is whether or not this oil shale business is for real, and whether or not you are really going to go ahead, and when are we going to see the oil. It seems to me, in one sense, the commitment that has been made of $60 million by one company in one area is almost a more dramatic testimony as to how serious you are about oil shale development than the actual commitment of time and men and money to the operations themselves.

I'd like to talk about one specific aspect of this that I'm aware of, and I would like to pin down how the current tax law affects a contribution which I understand was made by Union Oil for the fire protection of the town of Parachute. The amount, I'm told, is $500,000. And my question is this: From the company's standpoint, what's the tax status of that?

Mr. RANDLE. Senator, let me introduce Dick Fishman, who is on our corporate legal staff as one of our tax attorneys, and he would be the best person to address that.

Mr. FISHMAN. Mr. Chairman.

May I ask Mr. Randle, was that one of the contributions, Allen, that was tied up with a permit?

Mr. RANDLE. Yes, that's correct.

I'm not quite sure of the dollar figure. I don't recognize that, Senator Armstrong. But we have purchased a fire truck, which is what it amounts to, in the town of Parachute, and are doing some other things as well.

[The prepared statement of Allen Randle follows:]

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union

Testimony Presented at a Hearing of
the Energy and Agriculture Taxation Subcommittee
of the U. S. Senate Finance Committee
April 16, 1981 Grand Junction, Colorado

by

Allen C. Randle
Vice President of Oil Shale Operations
Union Oil Company of California

Good afternoon. My name is Allen Randle and I am Vice President, Oil Shale Operations of the Energy Mining Division of Union Oil Company of California. The construction and operation of Union's Phase I facility is within my area of responsibility. I appreciate this opportunity to offer comments on S. 1919.

As you may be aware, Union has been a pioneer in the development of oil shale. Our 10,000 barrel per day facility has an anticipated start-up date of mid-1983 and will be the first operational commercial size facility in the country. This facility represents a substantial commitment on behalf of the company to the development of this needed energy resource.

Union has recognized a need for expanded housing and public services to provide for a growing population drawn by oil shale development. We are making every effort to assist in handling this growth. The company has constructed housing and is working with local officials in financing services, such as schools, highways, water and sewer systems, emergency medical services, human services, administrative services and public safety. We have expended or committed nearly $60 million through 1983 to ease social and economic impacts in Garfield County.

Once our Phase I facilities are on the tax rolls, the taxes and other revenues received by the state, county and local communities will more than offset the costs of services the population influx will require.

There is, however, uncertainty present with regard to many of our community assistance efforts under current federal tax law. This uncertainty affects our ability to determine the actual cost of these impact mitigation measures to the company, and their effect on project economics. S. 1919 would eliminate this uncertainty, and create an atmosphere in which it would be easier for Union to work with local communities in the resolution of problems that concern us all.

Providing certainty with regard to the treatment of our efforts during the initial period of development is a significant plus. We welcome the efforts of the sponsors of S. 1919 and the companion H. R. 5403.

Thank you. If you have questions, I would be happy to address them.

Senator ARMSTRONG. Well, now, is that a contribution? In other words, is this a prepayment of taxes or is it a contribution or does it slip between the cracks and do you get to take it off your taxes? That's my question?

Mr. FISHMAN. Senator, that is a contribution that was a requirement—part of a requirement imposed upon Union to obtain a permit to operate one of the facilities associated with the project.

Senator ARMSTRONG. I see.

Mr. FISHMAN. It's in the area.

Senator ARMSTRONG. So it's tax status, then, is——

Mr. FISHMAN. Very uncertain. The case Mr. McDermott mentioned in his testimony, might very well be challenged by the Internal Revenue Service, where we would take a deduction. The *Fenton* case would support a position by the IRS that we would have to amortize the cost of that fire engine, I believe the Senator referred to, along with any other costs associated with the permit over the life of the permit.

Senator ARMSTRONG. I see. Could I ask this question: I want to establish, Mr. Chairman, that we are not swatting at flies here, and clearly, we are not. If one company has already expended or committed $60 million in one town, obviously we are not talking about nickels and dimes.

Is it possible, Mr. McDermott, or others, to tell us what the overall dollars we are talking about may be or is that a number that you are not ready to tell us at this point?

Mr. MCDERMOTT. I think that would be very difficult, Senator, to even estimate. But I think that there are some other indications of it, you know, the short-term magnitude that these could amount to.

I know that Phillips Petroleum, in the partnership that they are in over in Utah, the White River project, they are anticipating prepayment of taxes in an amount in excess of $5 million. That's a sum that could be on the table, you know, within the next few years. So that there are incidents like that.

And I think that we have all—one of the problems here is that the contributions that have been made to date have not come up to audit yet, so you can't cite specific cases of where there has been a rejection by the IRS because they haven't been in that stage yet. We are really talking about the future and the advantage that this bill would give to clarify those situations well ahead of time.

Senator ARMSTRONG. Well, I don't want to put a number in your mouth if you don't want me to do that.

But I take it, just based on what we have discussed, if I were to assert to my colleagues that the total amount of this could well be upward of $100 million, that is not an exaggerated figure at all?

Mr. MCDERMOTT. Well, it would depend on what period of time you are talking about, Senator. That's very difficult because of the number of projects and the timing of those projects, and where they are at, and other mechanisms that would be there that would take care of the financing.

Senator ARMSTRONG. All right. Fair enough.

Thank you, Mr. Chairman.

Senator WALLOP. And I believe, actually, that the definition contained within the bill would contemplate the range of activities

that would not be easily forecastable in other related energy projects that would be there.

I just had a thought occur to me that related somewhat to the county commissioners' and mayor's testimony and something that bill said here about wondering when we are actually going to have oil shale—oil from shale or petroleum products of a refining commercial nature.

What happens—we don't address it, the companies must consider it—but what happens if you prepay taxes and then you have no taxable entity out there? Suppose the market changes, as it has more than once in the past, and oil shale doesn't come on line or tar sand in Utah, or some other kind of thing that might otherwise qualify?

Mr. McDERMOTT. Well, Mr. Chairman, I think that is one of the concerns that was expressed by Commissioner Cerise and some others about the negotiation that really has to take place in the prepayment of taxes. And that does have to, under the State acts that were passed last year, that does have to be in agreement. The company cannot just go out on its own and prepay a tax.

Senator WALLOP. No; I understand that. My question is a little different.

Mr. McDERMOTT. But I'm saying, in anticipation of your very thing, that it would be financially unwise for a county to extend itself on prepayments to the extent of where it could jeopardize the very thing you are talking about.

Senator WALLOP. I believe that, from what I understood to be the Colorado law, that the counties have the power to take care of themselves in this instance.

The question, perhaps I haven't phrased it well, that I'm asking is: Suppose Union Oil Co. prepays 10 or 20 million dollars' worth of taxes in order to accomplish one of the purposes contemplated in the bill? Then suppose that the energy market becomes such that the project doesn't go forward and the prepaid taxes are against an entity that is no longer taxable? You see what I'm talking about?

Mr. McDERMOTT. Yes.

Senator WALLOP. Four years down the road you have prepaid taxes for something that doesn't exist. What do you contemplate there? Is that a corporate risk?

Mr. SPENCER. Perhaps, Senator, under current law it would be my interpretation that if we were to prepay a tax, as is currently provided for in the State of Colorado and Utah, that we would create an asset, an intangible asset, to be written off over a period of years as the liability came due. If that liability never came due and the project was terminated, then at that point in time I believe it would be written off as a loss or—that particular asset, it would become worthless at that point in time.

Senator WALLOP. That's what I was trying to establish. It wouldn't suddenly become a liability of a local government.

Mr. McDERMOTT. No.

Mr. SPENCER. No.

Senator WALLOP. That was what I was trying to establish.

Mr. SPENCER. One of the things that I would like to bring up, in this same context, is that in Flaven Cerise's comments about the prepayment and the agreement between the local communities, I

would like to point to the Colorado Revised Statutes, in section 39-1.15-104, dealing with prepayment, which just briefly states that an owner of an operation who elects to make prepayments under this article, and the governing body of a local government, shall jointly determine and agree upon.

And in the State of Utah, under section 63-51-3 of natural resources, facility prepayment of taxes, the code provides that the developer also may prepay with the consent of the governing bodies of the units of local governments affected.

So in both cases, where the statutes provide for the prepayment, it also requires the local agreement for that.

And your bill addresses, or in Senate bill 1919, does address where it is required, in paragraph B-1, where it is required or permitted under State law, and is to be used for the purposes that are outlined. It has to be addressed there.

Senator WALLOP. Yes; it sounds to me as though it's workable.

I did want to establish that, in your mind, if such a thing did take place, it wouldn't accrue as a liability somehow or another to a local government. I mean, that would be the kind of impact that would probably be pretty memorable.

Do you have any other questions?

Senator ARMSTRONG. Thank you. No.

Senator WALLOP. I appreciate very much your giving us the benefit of your comments on this.

I have a new and vastly updated list of witnesses. We are going to try this one out and see what happens.

Next is the Honorable Peggy Rector, mayor of Rangely, Colo., and Mrs. Jane Quimby, former mayor of Grand Junction and speaking for the Colorado Municipal League.

Senator ARMSTRONG. Mr. Chairman, while the municipal officials are coming forward, may I just note for the record the presence at this hearing of Allen Hale from our colleague, Senator Hart's office; of Jim Huska from Congressman Hank Brown's office; and two members of my staff, John Jackson, who runs my office in Grand Junction, and Brian Waidman, who assists me on the Finance Committee. We are particularly grateful to Senator Hart and Representative Brown for having their staff members present today.

Senator WALLOP. As long as we are doing that, may I point out that my staff member, Lindsey Hooper, who does my work on the Finance Committee, and keeps me going straight with areas like this.

Mayor RECTOR. Welcome.

STATEMENT OF PEGGY RECTOR, MAYOR OF RANGELY, COLO., AND CHAIRMAN OF THE COLORADO MUNICIPAL LEAGUE'S ENERGY IMPACT COMMITTEE, ACCOMPANIED BY JANE QUIMBY, CITY OF GRAND JUNCTION PLANNING COMMISSION MEMBER AND COLORADO MUNICIPAL LEAGUE PRESIDENT

Mrs. RECTOR. Thank you, Senator Wallop and Senator Armstrong. We are honored to be here this afternoon to speak in support of S. 1919, the Energy Community Self-Help Act of 1981, and

to have you both here in Colorado's western slope which is fast becoming this country's energy center.

I am Peggy Rector, mayor of Rangely, Colo., and chairman of the Colorado Municipal League's Energy Impact Committee. The committee studies energy development issues affecting our cities and towns and helps make policy recommendations for the league on such issues. Joining me is Jane Quimby, current president of the Colorado Municipal League and Grand Junction City Planning Commission, and former mayor of Grand Junction.

Jane and I are going to do this a little different, with your support. I'm going to turn it now to Jane to give the views of CML, and then I will be back to respond to some issues that I know Senator Armstrong was interested in, and how Rangely addressed the energy impact.

So with that, I will turn it to Jane Quimby.

Senator WALLOP. By all means. If it's more comfortable to pull that microphone down a little bit, by all means.

Mrs. QUIMBY. Thank you. Good afternoon, Senators. And thank you very much for coming.

The Colorado Municipal League represents 234 cities and towns within the State of Colorado. Our activities range from providing technical assistance and services to our member municipalities to the legislative advocation of the State legislature, and working with our Washington Representatives in helping to shape national legislation. The Wyoming Association of Municipalities is our counterpart in your State.

Regarding Senate bill 1919, we commend you for your project toward the energy impact mitigation in this legislation. Federal prepayment deductions and tax credits will give companies another important incentive and tool to provide the up-front financing needed by local governments in dealing with energy development.

One of the most important features of the bill is found on page 5, which allows the company to claim a Federal deduction for the underwriting of any local government bond issue to finance public services or facilities.

Further, the bill provides an important Federal counterpart to the State statutory framework which we now have in place for local property tax and State severance tax prepayment credits allowed to eligible companies.

We have just several concerns that we would like to have you consider regarding this legislation, and they have been mentioned, I believe, before.

First, and foremost, we believe that there needs to be some type of State and local government consultation to the Treasury Department that is built into any Federal deduction or tax credit decision. In Colorado, our statutory process for the review and approval of State Severance tax prepayments has worked reasonably well in the opinion of us. Implicit throughout our procedure is consultation by the State with affected units of local government through an advisory committee. Such consultation affords both State and local officials an important mechanism for reviewing the impact mitigation plans and policies of a particular company.

And I am a member of that State committee which reviews those.

Senator WALLOP. Mrs. Quimby, forgive me for interrupting, before I forget the question, and while it's relevant to what you have been saying. What would you have these local governments consult with the Federal Government about?

Mrs. QUIMBY. We are concerned that if there was not a decision made at the Federal level, of the possibilty of a decision being made that a prepayment could be made without the consultation of the local governments as to whether or not they wanted it.

Senator WALLOP. You are not talking about consultation with the Federal Government?

Mrs. QUIMBY. No. No.

Senator WALLOP. You were causing me very great discomfort. OK.

Mrs. QUIMBY. It probably would cause us great discomfort, too.

Senator WALLOP. No. That's fine.

Mrs. QUIMBY. Their consultation, of course, affords us the information that we need as State and local officials, and a mechanism for reviewing the mitigation impact plans and policies of the company.

But we want it clearly understood, no misunderstanding, that as city and town officials, we are not asking for any type of veto over a Federal prepayment deduction or tax credit request, merely a consultation, using a review framework along the lines of what has been established in this State for the severance tax prepayment requests.

I do serve on the statewide advisory committee which reviews the prepayment applications for the Colorado Department of Local Affairs and if you so desire we can get into a little more detailed description of how that process works. Since 1979, when the law was first enacted, we have approved 15 prepayment applications. Three of our Grand Junction area State legislators, Senator Tilley Bishop, Representative Jim Robb and Representative Vickie Armstrong, have been very helpful to help fine tune the State statutory process.

Second, we believe that the $50 million threshold for eligible facilities, also on page 3 of the bill, may treat unfairly some of the smaller companies which may be just as willing to prepay a share of their taxes. We believe that perhaps a smaller dollar threshold could be established by the Senate Finance Committee. And, finally, we would like to see a specific tax credit be given to companies which elect to pay Federal mineral royalty and lease taxes under the Mineral Land Leasing Act of 1920. Senate bill 1919 does not appear to deal directly with this type of deduction, and we feel it would be a useful feature in the legislation.

You heard that from the county commissioners and others. We are simply enforcing that.

We know of your interest, Senator Armstrong, in learning how Colorado is meeting the energy development and impact mitigation, and that you are especially interested in what one county can specifically address as a manner that they have chosen. Peggy will address this in much more detail.

Again, the league has on previous occasions indicated support to you of this legislation, and I want to reinforce that and assure you that we look forward to working with you. We will work for you in

whatever remains to be done to deal with this. We feel that your bill is a major step in that direction. We appreciate the consideration of your views and will welcome any request from you of any help that we may be able to give you in this direction. Thank you very much.

Senator WALLOP. Thank you very much, Mrs. Quimby.

Mrs. RECTOR. Back to me.

Rangely is a community of about 2,100 people, which is located 90 miles north of here, for those of you who may not be totally familiar with the geographical and demographic makeup of the western slope. It is in towns such as Rangely, Meeker, Rifle, De Beque, Peonia, Crawford, and so forth, where the future social and economic drama of energy development in Colorado will take place. As time goes on, each of you will become more familiar with these towns, their problems, and their mayors, councilmen, and managers.

Rangely was incorporated after World War II as a result of the discovery and development of the Rangely Oilfield by Chevron Oil Co. U.S.A. The Rangely Oilfield, today, is among the top producers in the United States. The field also produces a significant amount of natural gas. Like so many other towns in Colorado and the Rocky Mountains, Rangely was, prior to the development of the oil and gas industry, a sleepy, agriculturally based community that had really very little to do with the rest of the world. That has all changed and continues to change almost beyond comprehension as energy development proceeds.

With its relatively long experience with the energy extraction industry spanning some 35 years, it can be said that Rangely was one of Colorado's original boomtowns in the 20th century. We can probably thank the good Lord that the boom has been gradual over a period of years.

Rangely, again, like other towns in Colorado, did not realize one dime of direct tax benefit from the Rangely Oilfield in the form of severance or production taxes or property taxes. This is not to say that individuals in business within the town did not derive economic benefit. The oilfields, of course, are located outside the incorporated boundaries of the town and, therefore, not within the town's taxing jurisdiction. Yet, the people impact is in the town. So tax dollars traditionally have not gone to Rangely, the unit of general purpose local government which has to provide the services to insure housing subdivisions, critical public services, such as police protection, streets, water and sewer, and many others. The problem of tax dollars versus public service responsibility can best be seen by the fact that Rangely's 1981 residentially based assessed valuation this year amounts to $5.3 million, as contrasted to western Rio Blanco County's industrial-based 1981 assessed valuation of $182 million, where the Rangely Oilfield is located. Put another way, one mill in the town of Rangely raises $5,300 while one mill in western Rio Blanco County raises 34 times as much or $182,000. Quite a difference.

In 1982, the disparity of assessed valuation between the town and the surrounding area will be worse. This situation of low assessed valuation is repeated in small towns throughout western Colorado, where rapid development caused by the energy extraction industry

has or will double, triple, and quadruple populations in 2 or 3 years. For those of you from the Denver or Colorado Springs metropolitan areas, try to imagine similar population growth in your areas and how your cities and towns would cope with it. Even increases in sales tax revenue cannot and do not offset immense increases in operational cost and long-term debt service made necessary by such rapid growth.

As most of you know, Rangely is now faced with a new era, the development of the Deserado Coal Mine, located some 10 miles to the northeast of town. Western Fuels-Utah, Inc., will be developing the mine to feed a 400-megawatt, coal-fired generating plant located in Utah, some 30 miles away. Initially, the plant will take 1.35 million tons of coal per year for the 400-megawatt plant. The plant may be expanded to include another 400 megawatts, meaning that production from the mine could reach 2.6 million tons annually. The expectant life of the mine is about 35 years. The anticipated permanent population on Rangely by the year 1985 is an additional 2,000 people, effectively doubling the current population, which in turn means that existing municipal services will be doubled and new services added to meet the demands of our new population. We are estimating the addition of 500 to 700 units of permanent housing, in effect putting another town on top of the one we now have.

In June 1981, Rangely, Rio Blanco County, the school district, and various other districts in and around Rangely signed a social-economic mitigation agreement containing the following up-front financial provisions for capital improvements that would otherwise have to be financed by the existing taxpayers through yearly budgets and long-term debts.

The dollar amounts on those for Rio Blanco County, mine, road, and bridge, $1,600,000; Rio Blanco County, $1,500,000; Rangely, immediate needs, $1,515,000; Rangely, deferred sewer and water expansion, $3,375,000; Rangely streets, gutters, drainage related to project housing impact, $2,400,000; recreation district, $820,000; hospital district, $876,000; fire district, $120,000; the library district, $105,000; the school district for grade school, $2,265,000; for a total of $14,600,000.

In addition, Western Fuels has agreed to a housing plan which will take care of 100 percent of their worker-impact, plus the induced or secondary population.

Rangely's share of this part of the agreement comes to about $7.3 million. While that may seem like an outlandish number, bear in mind Rangely's residentially oriented tax base of $5.3 million. Its debt limitation is only $530,000, a far cry from the $7.3 million needed to meet Western Fuels' impact.

The agreement also calls for Western Fuels to assist in the funding of operations and maintenance to the extent that its impact on general operating budgets is not made up by taxes paid by Western Fuels and grants received for such impact.

Though it is difficult to estimate the total cost that Western Fuels will ultimately bear, even if the total comes to $25 million, that is still only 2 percent of the entire project development cost estimated at $1.2 billion for the mine, powerplant, and railroad needed to transport the coal.

Given the inadequate existing services, housing stock, and infrastructure capacity to accommodate the anticipated growth resulting from the activities of Western Fuels and the inadequate Rangely tax base, the question to Western Fuels and perhaps to other energy companies faced with similar situations is whether mitigation measures are cost effective in terms of worker productivity and satisfaction, and whether community stability for industry will be assured; whether adequate services and housing stock are available. In short, whether the community remains whole, that, ladies and gentlemen, is the bottom line; it is in the interest of both the community involved and the industry that impacts that community to determine what that bottom line might be in the face of large scale energy development.

Reaching an understanding, the bottom line places a great deal of responsibility on both industry and government, most particularly local government, to insure that communication lines remain open from the outset and that real impacts are honestly identified and honestly addressed. What I am advocating is extremely important, perhaps critical, for municipalities which have low tax base, will experience most of the socioeconomic impacts in our rural areas, and have no permitting authority. A good relationship with all levels of government is essential in this process that includes State government, Federal Government, and county government. For the general assembly's part, please keep your ear attuned to the ongoing process and negotiations involving local government and industry, and assist where you can by granting tax incentives, expediting impact review processes, and providing local governments with technical assistance so that impacts can be honestly identified and honestly resolved.

I wish to thank you for giving me this opportunity to address you.

Senator WALLOP. Thank you very much, Madam Mayor.

Bill, do you have any questions?

Senator ARMSTRONG. Very, very interesting statement, which we are grateful for.

How long have you lived in Rangely?

Mrs. RECTOR. I have lived there 19 years. My husband is one of the few natives, born and raised there.

Senator ARMSTRONG. Very, very interesting.

It's hard, I think, for someone who hasn't lived through the impact of this to really get their head around it. But the data you have supplied is most helpful and we are grateful to have it.

Let me ask you this question, the same question that I have put to the members of Club 20. You have had occasion now in your capacity as mayor, and Jane Quimby as the former mayor here, of working with these companies. How do you find them? Is it fair to give them high marks for wanting to deal responsibly with these problems?

Maybe I shouldn't ask this, but I'm going to anyway. On a scale of 1 to 10, if 1 is lousy and 10 is the best, where would you put them in? And don't mention any names unless you wish to do so.

Mrs. RECTOR. My counterpart is out here.

Senator ARMSTRONG. Where do they range on the scale?

Mrs. RECTOR. If I might, I would like to say, industry, without ranking them, I think has become attuned to the impact problems that we are all sharing. And I think the communication lines we are keeping open by working around the roundtable and discussing those issues.

I compliment the company that we are now presently dealing with, Western Fuels. I think I rank them very high on the totem pole. The situation with Rangely, that was very unique, with the powerplant over there.

The companies in western Colorado, I think, are facing up to the issues. I think we will have many things to face up to in the future, as we have in the past, but I think we are all becoming aware and educated to communities, and counties are becoming educated to industry, industry is becoming educated to the communities, and the counties.

So I think with that in mind; we can work toward the solution.

I think we are all doing a good job. We are spending a lot of time on it, the industry, and county, and municipal people, so I'm very pleased with what is happening.

Senator WALLOP. If I might slip in. I don't mean to interrupt you, Bill. But I think there was a statement made earlier here which was perhaps inadvertant, because it doesn't exist anymore, trying to distinguish between doing something for the company's employees in a community and the general public. Well, the employees become—they are the general public, and I don't think that distinction applies anymore.

Senator ARMSTRONG. In a lot of these communities, right.

Senator WALLOP. I would be delighted to hear Mayor Quimby's observations on the same subject.

Mrs. QUIMBY. I would like to amplify just a little bit. I think both the companies and the local government entities have learned a lot in the last 4 or 5 years. I regret to say our communities were not always responsible in the earlier times in what they requested of industry, nor was industry always responsive to our requests. And I think through a process of working together and meeting across the table, we have learned that there are some give and take, and that you must work together, that is to the benefit of all of us, if we do. And we still go through some rather painful learning experiences on occasion, but I'm very pleased and proud of the way that we all have put our act together, if you will.

Senator ARMSTRONG. You know, I note that over the years it has become fashionable among business concerns to really get way out in front of the kind of thing we are talking about. I don't know whether they are really better citizens than they used to be, in a corporate sense, although I suspect many companies are. But a few yeas ago people didn't beat a path to my office to tell me what they were doing to build libraries and schools, and sewers, and so on. If a company came in, the main emphasis of its presentation would be quite different than that.

Today, a big energy company comes to Washington to call on the Senator from Colorado, and they have got reams of material about the energy needs of America, and the economic feasibility, and all that, but the thing they want to tell me about is exactly what we are talking about here today. It's interesting how times change.

Well, you have already heard me say the companies have done very well, and I think in large part it is because they have worked closely, face to face, with the people who are on the firing line in local government.

Mrs. QUIMBY. One of the most important things, I think, the companies have done, is to put people who are in decisionmaking positions at the local level, and it's much easier to deal with Bill McDermot, that I can see every day or every other day, than it is some faceless name in New York or Los Angeles or someplace else. And I know if we have concerns or problems, we can go to those people at the local level, and they might not be able to give us the answer, but they ceratinly will make every effort to see that we reach some kind of a conclusion.

Senator ARMSTRONG. Good point. Good testimony.

Thank you very much.

Senator WALLOP. What you just mentioned is interesting to me, because what we find in Wyoming is in direct proportion to the relationship the company has with the community, and those who have put corporate vice presidents, or others, on the ground have a pretty good time of it, they seem to have decisions made in their behalf, as well as make decisions in other people's behalf right quickly. And those who have seen fit to keep their people in Houston, or other places, are the ones who are experiencing rocky relations all along.

One thing I guess just bears repeating. Nothing in this legislation will do much for the problem you would identify about county tax bases versus city tax bases, when it comes to prepayment of taxes. Frankly, my own hometown, and my own home county, suffered uniquely for that very reason, because when the good Lord put the boundaries around them, he gave us all the beauty and everybody else all the energy, so it lies outside our borders in Montana. But what is worse, there is no joint powers with Montana, nor with the company or the Indian tribe.

And also, the point I guess I'm trying to get at is, that there still remains, even with the creative work that was done in this session of your legislature, and in the past decade or so, some things that probably have to go toward addressing that issue, if this were a tax base, it could present a very desperate civic obligation, and that's for another day. And Lord help you if the Congress gets involved in that.

Mrs. QUIMBY. In one of the bills that was just signed this week, House bill 110, of which the cities and counties worked very hard on, the distribution of some mineral lease payment moneys are now changed so that the cities and towns can receive a portion of that, which has not been true in the past. And I think that is interesting.

If I might ask, have you received endorsement or support from the National League of Cities on the bill? If not, that would be helpful.

Senator ARMSTRONG. It would be great. It would be very helpful.

Mrs. QUIMBY. I was not aware if you had.

Senator ARMSTRONG. As far as I know, we have not received that endorsement. And I would be very grateful to see you work to get

that. And I would be very happy to work with the league's office on the other end of the process.

Thank you very much.

Mrs. QUIMBY. Thank you very much.

[The prepared statement of Mayor Peggy Rector of Rangely, Colo., follows:]

Colorado Municipal League

Statement of Colorado Municipal League Supporting S. 1919

Peggy Rector, Mayor of Rangely, Colorado, and Chairman of the Colorado Municipal League's Energy Impact Committee

Jane Quimby, City of Grand Junction Planning Commission Member and Colorado Municipal League President

Introduction

Senator Armstrong and Senator Wallop, we are honored to be here this afternoon to speak in support of S. 1919, the Energy Community Self-Help Act of 1981, and to have you both here in Colorado's Western Slope which is fast becoming this country's energy center.

I am Peggy Rector, Mayor of Rangely, Colorado, and Chairman of the Colorado Municipal League's Energy Impact Committee. The Committee studies energy development issues affecting our cities and towns and helps make policy recommendations for the League on such issues. Joining me is Jane Quimby, current President of the Colorado Municipal League and Grand Junction City Planning Commission Member. Mrs. Quimby has also been Mayor of Grand Junction.

The Colorado Municipal League represents 234 cities and towns throughout Colorado. Our activities range from providing technical assistance and services to our member municipalities to legislative advocacy before the General Assembly and working with our Washington representatives in helping to shape national legislation. The Wyoming Association of Municipalities is our counterpart organization in your state, Senator Wallop.

S. 1919

Senators, we commend you for the approach taken towards energy impact mitigation in this legislation. Federal prepayment deductions and tax credits will give companies another important incentive and tool to provide the "up-front" financing needed by local governments in dealing with energy development.

One of the most important features of the bill is found on page 5 of S. 1919 which allows a company to claim a federal deduction for the underwriting of any local government bond issue to finance public services or facilities.

Further, the bill provides an important federal counterpart to the state statutory framework we now have in place for local property tax and state severance tax prepayment credits allowed to eligible companies.

S. 1919 Concerns

We wish to raise for your consideration only three points regarding S. 1919.

First, we believe some type of state and local government consultation to the Treasury Department ought to be built into any federal deduction or tax credit decision.

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In Colorado, our statutory process for the review and approval of state severance tax prepayments (C.R.S. 1973, 39-29-107.5, attached) has worked reasonably well in the opinion of city and town officials. Implicit throughout our procedure is consultation by the state with affected units of local government through an advisory committee. Such consultation affords both state and local officials an important mechanism for reviewing the impact mitigation plans and policies of a particular company.

But, so there is no misunderstanding, as city and town officials, we are not asking for any type of veto over a federal prepayment deduction or tax credit request--merely consultation using a review framework along the lines of what has been established in this state for severance tax prepayment requests.

Mrs. Quimby serves as a member of the statewide advisory committee which reviews prepayment applications for the Colorado Department of Local Affairs and can describe for you in greater detail how the Colorado process operates. Since 1979, when the law was first enacted, 15 prepayment applications have been approved. Much of the credit for this can be given to three Grand Junction area state legislators who have worked hard to fine-tune this statutory process: Senator Tillie Bishop, Representative Jim Robb, and Representative Vickie Armstrong.

Secondly, we believe that the $50 million threshold for eligible facilities (see page 3 of the bill) may treat unfairly smaller companies which may be just as willing to prepay as larger companies. We believe that a smaller dollar threshold should be established by the Senate Finance Committee.

Finally, we would like to see a specific tax credit be given to companies which elect to prepay federal mineral royalty and lease taxes under the Mineral Lands Leasing Act of 1920. S. 1919 does not appear to deal directly with this type of deduction, and we believe it would be a useful feature to add to the legislation.

Conclusion

We know, Senator Armstrong, of your interest in learning how both Colorado and my community of Rangely have dealt with energy development and the mitigation of its impacts. We have appended to this statement a brief response to your interest in this subject.

The League wishes both of you success towards enactment of S. 1919 and looks forward to working with you. While much remains to be done to deal with energy development impacts, your bill is a major step in the right direction. We appreciate your consideration of our views.

Thank you.

(APPENDIX A)

Some Significant Colorado Response
to Local Government Energy Impact Mitigation
(not intended as an exhaustive list)

* Fifteen approved severance tax prepayments since 1979 and enactment of a state law to allow for same (attached).

* Enactment of 1981 state law which allows for prepayment of local property taxes (attached).

* Distribution since 1977 of $32.1 million in federal mineral lease and state severance tax revenues back to energy impacted local governments for a variety of local endeavors on a grants basis. Furthermore, a portion of severance tax revenues are also distributed back to counties and municipalities directly based upon employee residence. This has totaled over $3 million so far.

* Establishment of a State Impact Assistance Office in the Colorado Department of Local Affairs which provides technical assistance and consultation for impacted communities.

* Further legislative distribution revisions to the approximately $25 million the state received last year from federal mineral lease payments. These legislative changes during the 1981 and 1982 legislative sessions have increased direct amounts going to counties and school districts, and include cities and towns for the first time.

* Distribution of oil shale lease revenues derived from the federal C-a and C-b tracts back to impacted local governments through an historic four-county intergovernmental agreement approved by the Colorado General Assembly. This agreement covered over $47 million last year.

* A state joint review process within the Colorado Department of Natural Resources to review voluntarily between state, local, federal, and industry officials various siting and permitting decisions of government agencies affecting a particular company. It is similar to Wyoming's approach in the Industrial Siting Act, although there are substantive differences.

* Use of the intergovernmental contracting and agreements law between impacted local governments to deal with a variety of issues relating to impact mitigation (i.e., Western Fuels agreement and Mt. Gunnison ARCO Mine agreement).

* Continuing cooperation between impacted counties and municipalities through the Energy Impact Committee of the Colorado Municipal League and the Energy Committee of Colorado Counties, Inc.

* Industry, state, and local government cooperation on the Cumulative Impacts Task Force. This is a voluntarily funded project between these groups to accurately and quantitatively assess energy development impacts in a six-county Western Colorado area.

(APPENDIX B)

How Rangely has Dealt with Energy Impact

Rangely is a community of about 2,100 people, which is located 90 miles north of here, for those of you who may not be totally familiar with the geographical and demograhic makeup of the western Slope. It is in towns such as Rangely, Meeker, Rifle, DeBeque, Paonia, Crawford, etc., where the future social and economic drama of energy development in Colorado will take place. As time goes on, each of you will become more familiar with these towns, their problems, and their mayors, councilmen, and managers.

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Library District	$ 105,000
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	$14,600,000

In addition, Western Fuels has agreed to a housing plan which will take care of 100% of their worker-impact plus the induced or secondary population.

Rangely's share of this part of the agreement comes to about $7.3 million. While that may seem like an outlandish number, bear in mind Rangely's residentially-oriented tax base of $5.3 million. Its debt limitation is only $530,000, a far cry from the $7.3 million needed to meet Western Fuels' impact.

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of January, 1978, to the level of such index as of the last month of the quarter immediately preceding the quarter for which any taxes are due.

Source: Added, L. 77, p. 1846, § 1; (5) amended, L. 79, p. 1505, § 1.

39-29-107. Tax on severance of oil shale. (1) In addition to any other tax, there shall be levied, collected, and paid for each taxable year a tax upon the severance of oil shale as to all such severance occurring on and after January 1, 1978. Such tax shall be levied against every person engaged in the severance of oil shale. Subject to the provisions of subsections (2), (3), and (4) of this section, such tax shall be levied on the gross proceeds from each commercial oil shale facility at a rate of four percent of such gross proceeds.

(2) The tax shall only have application to a commercial oil shale facility ninety days after the facility reaches a daily average of fifty percent of its design capacity, as follows:

Year	Fraction of tax imposed by subsection (1)
First year	¼
Second year	½
Third year	¾
Fourth and each succeeding year	Entire rate imposed by subsection (1)

(3) The production of the first fifteen thousand tons per day of oil shale or ten thousand barrels per day of shale oil, whichever is greater, shall be exempt from the tax.

(4) With respect to shale oil produced from underground in situ methods, there shall be allowed, as a credit against the tax, an amount equal to twenty-five percent of the tax.

Source: Added, L. 77, p. 1847, § 1.

SEV. TAX

39-29-107.5. Credit allowed for prior payment of impact assistance. (1) (a) There shall be allowed, as a credit against any taxes imposed by this article on the severance of minerals or mineral fuels from or for a new operation from or for which first severance occurs subsequent to June 30, 1979, an amount equal to the value of approved contributions by the taxpayer made prior to first severance of such minerals or mineral fuels to assist in solving the impact problems of units of local government resulting from the initiation of such new operation.

(b) There shall be allowed, as a credit against any taxes imposed by this article on the severance of minerals or mineral fuels from or for an operation which has an increase in production from or for which increased severance occurs subsequent to June 30, 1980, an amount equal to the value of approved contributions by the taxpayer made to assist in solving the impact problems of units of local government or local units of government locally impacted by the increase in production of an operation.

(c) There shall be allowed, pursuant to an agreement between the taxpayer and the unit of local government specified in subparagraph (I) of paragraph (a) of subsection (2) of this section as a credit against any taxes

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imposed by this article on the severance of minerals or mineral fuels, in ad tion to any amounts determined under paragraphs (a) and (b) of this subs tion (1) and subsection (2) of this section, an amount equal to three-four of one percent per month times the amount of approved contributions a taxpayer for each month that any approved contribution precedes the mo in which said approved contribution is credited against a taxpayer's severa tax liability. Any amounts credited against a taxpayer's severance tax liabil shall be applied to reduce the amount, if any, of approved contributions n previously credited, and the additional percentage provided in this paragra (c) shall apply solely to said reduced amount of approved contributions. T additional percentage provided in this paragraph (c) shall apply only approved contributions for which credit has not been used prior to July 1983, and no additional percentage shall be allowed thereafter regardless when the approved contribution was made.

(2) (a) Approved contributions, for the purpose of such credits, sh include the contribution of property or payment of money to units of loc government or local units of government locally impacted, for use in pla ning, including financial, architectural, and engineering service construction, or expansion of public facilities, including but not limited county or municipal roads, schools, recreation facilities, water facilit sewage facilities, police and fire protection facilities, and hospitals, wh are deemed to be necessitated by the initiation of a new operation or increa in production of an existing operation. In addition, subject to the agreeme reached pursuant to paragraph (c) of subsection (1) of this section, appro contributions may also include any loss sustained by reason of the sale any bonds by the taxpayer who purchased such bonds, the proceeds of wh bonds are used in the planning, construction, or expansion of any such pub facilities by a unit of local government or local unit of government loca impacted, and any loss by reason of the default on loans made by a taxpay or satisfaction of a guaranty obligation of the taxpayer arising out of the iss ance of such bonds, whether or not such bonds are purchased by the ta payer. Such losses shall be approved contributions as of the date of t making of a loan, the date of issuance of the bonds, or the date of enter into the guaranty obligation; except that for purposes of the additional cre allowed pursuant to paragraph (c) of subsection (1) of this section, the da of the approved contribution shall be the date of default on any such loa the date of loss on any such bond, or the date of satisfaction of any su guaranty obligation. In no event shall the total amount of approved contrib tions by a taxpayer exceed fifty percent of the severance tax liability wh the taxpayer anticipates will be incurred during the first ten years of sev ance from a new operation or fifty percent of the increased severance t liability which the taxpayer anticipates will be incurred during the first t years of severance from an expanded existing operation plus the amou calculated pursuant to paragraph (c) of subsection (1) of this section. In ord for an approved contribution to qualify for credit, the following requiremen shall be fulfilled:

(I) Each contribution shall be based on an agreement between the ta payer and a unit of local government or local unit of government loca impacted, specifying the need for such contribution and its nature, value o amount, and purpose;

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(II) Each contribution must be acted upon for credit and, if approved, a certificate of eligibility issued, within ninety days after joint submission by the taxpayer and the unit of local government, or local unit of government locally impacted, by the executive director of the department of local affairs upon the recommendation of the energy impact assistance advisory committee created by section 34-63-102 (5) (b), C.R.S. 1973, and failure to act upon the eligibility within said ninety days shall be deemed as approval and certification of the contribution; and

(III) Certification of eligibility for credit of a contribution of a specified value or amount must be transmitted by the executive director of the department of local affairs to the executive director of the department of revenue, the unit of local government or local unit of government locally impacted, and the taxpayer.

(b) In the event that the taxpayer purchases any bonds relating to public facilities as provided in this subsection (2) or makes any loans or guaranty arising out of the issuance of such bonds, the contribution, for purposes of subparagraphs (I) and (II) of paragraph (a) of this subsection (2), shall be the purchase price of any bonds purchased, the face value of any bonds guaranteed, or the amount loaned; except that the taxpayer shall be entitled to claim as a credit pursuant to subsection (3) of this section only the amount of loss on any such bonds, the amount paid in satisfaction of any such guaranty, or the amount of default on any such bonds.

(c) In order for a loss from the purchase and sale of bonds to qualify as an approved contribution:

(I) The purchase must arise out of the original distribution of such bonds; and

(II) The sale of such bonds must be made through a registered broker; and

(III) The sale must take place within five business days of the purchase.

(3) A taxpayer shall be entitled to credit against its severance tax liability in an amount equal to the total of all contributions made and certified as eligible for credit plus the amounts calculated pursuant to paragraph (c) of subsection (1) of this section. The taxpayer may claim such credit by submitting with the annual declarations and returns required by section 39-29-112 the certifications of eligibility for such credit or evidence regarding deemed certification, and in the case of losses sustained by reason of the sale of any bonds purchased by the taxpayer, by reason of satisfaction of a guaranty obligation of the taxpayer arising out of the issuance of bonds, or by reason of loans made by the taxpayer, evidence of such losses. The amount of credit available in any one taxable year, including carry-overs, shall not exceed the taxpayer's severance tax liability in such year. Any excess shall be carried over and shall be available as a credit in the next succeeding year or years subject to the same annual limitation.

(4) For the purposes of this section, minerals or mineral fuels shall include, but not be limited to, crude oil, natural gas, and oil and gas.

Source: Added, L. 79, p. 1506, § 1; amended, L. 80, p. 739, § 2; amended, L. 81, p. 1900, § 1.

Editor's note: Section 4 of chapter 473, Session Laws of Colorado 1981, provides that the act amending this section is effective July 1, 1981 and applies to approved contributions.

39-29-108. Allocation of severance tax r

subsections (2) and (3) of this section, the the severance taxes imposed on minerals sions of this article shall be credited as foll

(a) For oil and gas, one hundred percen

(b) For oil shale, forty percent to the to the state severance tax trust fund creat percent to the local government severa 39-29-110;

(c) For molybdenum, as follows:

(I) For fiscal years ending on or befo to the state general fund, twenty percent t created by section 39-29-109, and ten perc ance tax fund created by section 39-29-110;

(II) For the fiscal year ending June 3(general fund, thirty percent to the state se section 39-29-109, and ten percent to the lo created by section 39-29-110;

(III) For the fiscal year ending June 3 general fund, forty percent to the state se section 39-29-109, and ten percent to the lo created by section 39-29-110;

(d) For coal and metallic minerals, as fo

(I) For fiscal years ending on or befor the state general fund, fifteen percent to created by section 39-29-109, and forty-fiv severance tax fund created by section 39-29

(II) For the fiscal year ending June 30 general fund, twenty-five percent to the sta by section 39-29-109, and forty-five perce ance tax fund created by section 39-29-110;

(III) For the fiscal year ending June 30 general fund, thirty-five percent to the stat by section 39-29-109, and forty-five percer ance tax fund created by section 39-29-110.

(2) Of the total gross receipts realized on minerals and mineral fuels under the p 30, 1981, fifty percent shall be credited to created by section 39-29-109, and fifty per government severance tax fund created by

(3) Effective July 1, 1981, the total gros has previously claimed the full amount of t tion under section 39-29-107.5 shall be allo tax trust fund until such time as there is n to any current allocation to such fund, an been allocated to such fund during the time

Source: Added, L. 77, p. 1847, § 1; amended, L. 79, pp. 1641, 1508, § § 56, L. 81, p. 1903, § 2.

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date shown by the cancellation mark stamped on the envelope or other wrapper containing the document required to be filed.

(b) Any such document which is mailed, but not received by the public officer or agency to which it was addressed, or is received and the cancellation mark is not legible, or is erroneous or omitted shall be deemed to have been filed and received on the date it was mailed if the sender establishes by competent evidence that the document was deposited in the United States mails on or before the date due for filing. In such cases of nonreceipt of a document by the public officer or agency to which it was addressed, the sender shall file a duplicate copy thereof within thirty days after written notification is given to the sender by such public officer of the failure to receive such document.

(2) If any report, schedule, claim, tax return, statement, remittance, or other document is sent by United States registered mail, certified mail, or certificate of mailing, a record authenticated by the United States postal service of such registration, certification, or certificate shall be considered competent evidence that the report, schedule, claim, tax return, statement, remittance, or other document was mailed to the public officer or agency to which it was addressed, and the date of the registration, certification, or certificate shall be deemed to be the postmark date.

(3) If the date for filing any report, schedule, claim, tax return, statement, remittance, or other document falls upon a Saturday, Sunday, or legal holiday, it shall be deemed to have been timely filed if filed on the next business day.

Source: Added, L. 77, p. 1404, § 2; (1)(a) amended, L. 79, p. 1420, § 1.

ARTICLE 1.5

PROP. TAX

Prepayment of Ad Valorem Taxes

Editor's note: Section 4 of chapter 447, Session Laws of Colorado 1981, provides that the act enacting this article applies to taxable years commencing on or after January 1, 1981.

39-1.5-101.	Legislative declaration.	39-1.5-105.	Prepaid taxes subject to laws governing financial affairs.
39-1.5-102.	Definitions.		
39-1.5-103.	Authorization of prepayment of taxes for capital improvements to local governments — no effect on obligation to pay taxes to other local governments.	39-1.5-106.	Relationship between prepaid taxes and the limitation on local government levies.
		39-1.5-107.	Prepayment arrangement not a general obligation indebtedness.
39-1.5-104.	Prepayment — amounts — credits — limitations.		

39-1.5-101. Legislative declaration. The general assembly hereby finds and declares that energy development operations and mineral extraction or conversion operations should be authorized to prepay ad valorem taxes to local

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governments for expenditure on capital improvements in order to meet additional public service demands created by such operations.

Source: Added, L. 81, p. 1839, § 1.

39-1.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Capital improvement" means any road or highway, school facility or equipment, domestic, commercial, or industrial water facility, sewage facility, police and fire protection facility or equipment, hospital facility or equipment, or any other local government administrative or judicial facility which a local government is authorized by law to acquire or construct.

(2) "Local government" means a county, municipality as defined in section 31-1-101, C.R.S. 1973, school district, or special district which has the authority to impose general property taxes.

(3) "Operation" means the development, construction, and operation of any facility for the production of energy or the extraction, processing, conversion, or refining of minerals, including, but not limited to, a mine, power plant, mill, retort, or related facility, or any combination thereof under the same ownership, if the valuation for assessment of the taxable property of the operation within the boundaries of a local government is estimated to exceed fifty million dollars when the operation begins functioning.

Source: Added, L. 81, p. 1839, § 1.

39-1.5-103. Authorization of prepayment of taxes for capital improvements to local governments - no effect on obligation to pay taxes to other local governments. (1) An owner of an operation may prepay moneys to one or more local governments, within the boundaries of which is located taxable property of the operation, for credit against general property taxes which will be levied in the future pursuant to articles 1 to 13 of this title. Said moneys shall be expended on capital improvements which are directly or indirectly related to the additional public service demands created by the operation.

(2) If an operation prepays moneys for credit against general property taxes pursuant to this article to one or more local governments, said prepayment shall not vary the operation's obligations, under law, to pay general property taxes to any local government which does not receive such prepayments.

Source: Added, L. 81, p. 1840, § 1.

39-1.5-104. Prepayment - amounts - credits - limitations. (1) An owner of an operation who elects to make prepayments under this article and the governing body of a local government shall jointly determine and agree upon:

(a) The total amount of prepayments to be made; except that the total amount of prepayments shall not exceed twenty-five percent of the estimate of the operation's projected tax liability to the local government over a twenty-year period, commencing with the taxable year in which the valuation for assessment of the operation is estimated to exceed fifty million dollars;

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(b) The amounts and intervals of prepayments and credits for such prepayments; except that an annual prepayment credit shall not be allowed prior to the taxable year in which the operation begins functioning or the valuation for assessment of the operation exceeds fifty million dollars, whichever is earlier, nor shall it exceed twenty-five percent of the taxes due from the operation to that local government for the then current property tax year.

(2) The owner of an operation, the governing body of the local government, the assessor, the treasurer, and the division of property taxation in the department of local affairs shall estimate when the operation's projected valuation for assessment will exceed fifty million dollars and the amount thereof for the ensuing twenty years, as well as the operation's projected liability for general property taxes for the applicable period.

(3) The governing body of the local government shall adopt a resolution or ordinance which contains the total amount of taxes to be prepaid, the anticipated amounts and anticipated intervals of prepayments and credits for such prepayments, and the capital improvement or improvements upon which such prepaid taxes will be expended.

(4) The credit allowed in any taxable year for prepayments made under this article to or for each local government or any fund or account within the fund thereof shall be treated as an abatement of the property taxes due to such local government for that year from said operation and shall not affect the determination of the valuation for assessment thereof. The credit shall be shown on the tax statement for that year as it applies to each local government, fund, or fund account to which applied.

Source: Added, L. 81, p. 1840, § 1.

39-1.5-105. Prepaid taxes subject to laws governing financial affairs. Moneys received pursuant to this article are subject to such laws relating to financial affairs, including budget, accounting, and auditing laws, as are or may be made applicable to the local government which receives such moneys.

Source: Added, L. 81, p. 1841, § 1.

39-1.5-106. Relationship between prepaid taxes and the limitation on local government levies. In determining the amount of revenue which a local government is allowed to levy under section 29-1-301, C.R.S. 1973, prepayments made under this article shall not be deemed property tax revenue in the year of prepayment; however, tax liability against which a credit is to be allowed shall be deemed property tax revenue attributable to increased valuation for new construction or bond revenue in accordance with section 29-1-302, C.R.S. 1973, in the year in which a credit is to be allowed.

Source: Added, L. 81, p. 1841, § 1.

39-1.5-107. Prepayment arrangement not a general obligation indebtedness. Any arrangement for prepayment of ad valorem taxes under this article shall not be construed to be a general obligation indebtedness.

Source: Added, L. 81, p. 1841, § 1.

ARTICLE

Division of Property Taxation -

39-2-108.	Rules and regulations.	39-2
39-2-109.	Duties, powers, and authority.	39-2
39-2-110.	Annual school for assessors.	
39-2-111.	Complaints.	
39-2-113.	Administrator may intervene.	39-2 39-2
39-2-114.	Reappraisal — when — procedures.	
39-2-115.	Review of abstracts of assessment — recommendations.	39-2 39-2

39-2-108. Rules and regulations. The ad regulations governing proceedings and hear article 4 of title 24, C.R.S. 1973, which rule to legislative review pursuant to section 24-4

Source: Amended, L. 77, p. 1733, § 8.

39-2-109. Duties, powers, and authority. and plant of all public utilities doing busine scribed by law, which value shall be equali sions of section 39-4-102 (3), and to prepa to be filed with him by public utilities;

(c) Repealed, L. 81, p. 1398, § 1, effectiv

(e) To prepare and publish from time t dures, and instructions, after consultation v committee to the property tax administrator ing and valuing land, improvements, and p their utilization by assessors in valuing and manuals, appraisal procedures, and instruct tors and procedures set forth in section appraisal procedures, and instructions shall the same as rules and regulations, pursuant 1973.

(h) To prepare and design a basic form assessment of real property which will set inserted pertaining to all factors set forth in s

Source: (1) (e) amended, L. 76, p. 7 amended, and (1) (h) added, L. 77, pp. amended and (1) (c) amended and repeale § § 3, 3, 11.

Editor's note: This section is amended by chapter 1981. Section 5 of chapter 452 provides that the act se (1) (a) is effective January 1, 1982, and applies to pr

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Senator WALLOP. The next witness is Mr. James C. Wilson, president of Rocky Mountain Energy and chairman of the Impact Assistance Ad Hoc Committee of the Western Regional Council.

Jim, nice to see you.

STATEMENT OF JAMES C. WILSON, PRESIDENT OF ROCKY MOUNTAIN ENERGY AND CHAIRMAN OF THE IMPACT ASSISTANCE AD HOC COMMITTEE OF THE WESTERN REGIONAL COUNCIL

Mr. WILSON. Thank you, Mr. Chairman. Senator Armstrong.

I'm really pleased to appear here before you today on behalf of the Western Regional Council. In my continuing role as president of Rocky Mountain Energy, I also serve as chairman of the council's ad hoc committee on impact assistance, that I think telegraphs the notion to you that those of us in the council have come to take their problem very seriously and have worked diligently, we feel, to try to visualize some answer to it.

The council, just for your information, is a coalition of 50-some companies in 8 Rocky Mountain States. The composition of the membership ranges from utilities to hard rock mining companies, coal companies, oil companies, implement dealers, and it is very broadly scoped. So our approach to a problem like this benefits, we think, from a broad range of interest and contacts with the economy as a whole.

Now, we have prepared and submitted a full and formal statement, and it's not my intent today to feed that to you. You will have it.

Senator WALLOP. Jim, we will have it in the record in its entirety.

Mr. WILSON. Yes. I would just like to highlight what its contents are, perhaps by special emphasis on three considerations that we think were really instrumental in forging our own thinking. That is our own proposals on this, and would like to draw that particularly to your attention, and, of course, endorse your bill because we think it is very critical to a fundamental solution to the problem.

The paper starts by simply expressing how, as an association or industry group, WRC has come to be interested in this problem. It's simply because of the fact that we have observed the failure to resolve the question, the failure for all of us to be able to come to grips with the effective management of rapid growth situations forestalls growth and, as you know, creates some very real human burdens. And that frustrates us. We think that our business is going to be best served by finding a solution to this, by visualizing its critical elements and moving on them.

We comment on the past Federal programs, the Federal efforts at legislation and, by and large, turn our backs on them because of their grandiosity, either because of the dollars involved or the implied bureaucratic apparatus that hasn't been in a positive direction, in our opinion.

All of this has led us to believe that a really new approach needs to be taken. And I think that your bill captures an element of that new approach. Certainly, it is part of our proposal. And our proposal simply is to provide for current tax deductibility, not only of local ad valorem taxes, but of other normally paid taxes, sources of

funds that would commonly be used in funding the kind of services and facilities that impact requires.

We also have placed rather particular emphasis in our proposal on the planning process that is, in our view, the underpinning for the expenditures which prepayment of taxes make necessary. We think some of the problems were soundly and wisely identified. I don't think any company is going to rush in to prepay an obligation that is not yet due, but the idea that a discipline needs to be there is obvious to us. We think that a planning process, companion to tax deductibility of the sort you have proposed, is very essential. We have gone so far as to say the tax deductibility might be even contingent upon the existence of a plan arrived at in a cooperative venture between project sponsors and local officials, and one given oversight by the Governor in the sense of determining completeness and where there are interjurisdictional balancing acts to be accomplished.

We also commented on your bill, and comment on the fiscal implications because we have encountered that question in Washington by folks from Congress, as well as in the administration.

Let me emphasize certain features that are kind of fundamental to our thinking about how to approach the solution.

One is that the essence of this problem, and I guess it has been said in a variety of ways today, is that it is a local problem. It will never be solved in any way other than by the combined effort of people in that local community where the problem resides, where the institutions exist for planning and managing, for collecting funds, and investing those funds in those solutions. We feel strongly about that essence. That's what causes one to say a Federal apparatus beyond facilitating, such as your tax prepayment provision would do, is inappropriate, say, at the Federal level, in any important way. In that sense, too, emphasizing the local nature of the problem is important. You just said it, I believe, a few moments ago, and that is, we all recognize our self-interest in becoming citizens in communities where our projects may be developed. Thus we become very much part of that local problem, and wish to, and feel, I think, deeply responsible for viewing it in that local and kind of highly personal way.

One of the other critical features is that in order to relax the communication process, which often over the years has been very testy between project sponsors and representatives of local communities, in order to permit a planning process to be carried out in a cooperative spirit, rather than in, let's say, a threatened, possibly even sometimes a kind of a blackmail atmosphere, the predictability source of funds is a highly valuable ingredient, we feel. Thus, that sent us to looking for not new sources, but new ways to bring conventional sources into play in this up-front gap period that is so critical. So it sends you to looking at ad valorem taxes. It sends you to looking at prepayment of credit, deductibility for prepayment of, oh, the Federal royalty payments, and payments of this sort, which have established channels for their use, so that you are not creating new sources of funds and new, let's say, hierarchies of administration to manage their use.

The third element, and I have kind of telegraphed it already, and that is that we think the—and you have qualification elements in

your bill, so that I kind of am addressing it at the generic level—that question of what qualifies an expenditure for deductibility if it has been funded through prepayment of taxes. Well, we think that that expenditure ought to be deductible if funded, as I say, through prepayment of any local taxes, revenue sources, if it is an expenditure against the kind of plan, cooperatively, arrived at such as I mentioned, and with all of the jurisdictions and their needs. We just heard one more reminder of the imbalance between impact and need and how that can affect the quality of a plan. Let's say, blessed in the sense by the Governor, because he has this—the kind of problem that Wyoming has tried to solve through its particular kind of legislation.

Senator WALLOP. Jim.

Mr. WILSON. Yes.

Senator WALLOP. I have a problem with that. And maybe some who are politically seated might comment on it.

I can see that with the gifting, that there has to be a qualified project and defined in some way, but it seems to me, under prepayment of taxes, we ought to permit those taxes to be expended on any legitimate governmental purpose, because otherwise you get this bizarre accounting system that is necessary for the local governments that have to separate out what has been prepaid—it strikes me as sort of a Federal intrusion in their governmental right, if they get their taxes prepaid and they still have a problem at the end of it.

Senator ARMSTRONG. Mr. Chairman, I do not disagree. I think you are absolutely right with respect to the tax portion of it. And, in fact, it's a voluntary act on the part of the company, anyway. And if they don't think that it's pursuant to a sound plan, they don't have to agree to it. On the other hand, if it is something they are compelled to do, it isn't a prepayment, it's a current year tax, and in that event, there is no question it would be tax deductible.

Personally, I would think, as a matter of prudence, that it would be wise to have area planning and the Governor's involvement, and all that. But as a matter of writing a tax law at the Federal level, I would like to leave all of that out because that would just invite somebody at the IRS, the Commissioner of Revenue, or somebody to try to get into things we really don't want to monkey around with——

Senator WALLOP. To come down and set on Mayor Rector's desk.

Senator ARMSTRONG. As a matter of policy as to companies. And I agree, of course, that's the kind of cooperative kind of attitude they would want to foster.

Mr. WILSON. Well, we have been aware of your hesitance on this particular matter. And I think the only reason I have reiterated that view on the part of the council is that we feel that problems will remain in a state of suspension if there isn't encouragement, inducement, to bring all of the parties to the issue into an honest-to-God, solution-oriented aspect.

Senator WALLOP. I think one inducement is you don't have to pay them, the one inducement, the companies don't have to prepay the taxes unless it is part, as Bill suggests, a part of a mitigation plan of some kind.

What this contemplates is no one obligatory type of thing, it's simply an arrangement between an impacting company and an impacted entity.

Mr. WILSON. The problem with that is it ignores the very real tension that exists, and I know you have heard countless tales of this between project sponsors and local officials. On the one hand, many companies do not come forth and participate fully, partly because, historically, the identification of the source of funds has never been there. There has always been the implied threat, "It's my pocket we are planning to use." On the other hand, the communities have held permits hostage, and have gone for sort of overboard mitigation plans, and so on. The atmosphere is one that has not succeeded in bringing forth, in all cases, and we have heard positive examples. But in all cases, it hasn't motivated a constructive real solution, because there are too many elements of uncertainty that remain.

Senator WALLOP. I understand what you are saying. But in my experience, the atmosphere is never particularly cleared by inviting the Federal Government in as mediator.

Mr. WILSON. In that respect, all we would say is, all the criteria be locally related, they would be established from the State level down. The code would have to say nothing more than "contingent upon."

Senator WALLOP. I didn't mean to interrupt you.

Mr. WILSON. Well, this is an issue that is very relevant to your bill's consideration.

Let me move, now, to your bill. And while we feel very positive about it, and are most appreciative of your interest in it and sponsorship of it, there are two or three things we would like to bring to your attention.

This is almost more semantic than anything else. But there is reference, from time to time, about energy and other resource development projects. Sometimes that "other resource development" portion of that phrase is left out. I think it would be extremely important not to let this bill, which has the possibility of being generically valuable in all rapid growth situations whether it is, say, in connection with a refinery being built on the coast of Maine or a shale project being built in Rio Blanco County, Colo., just be applicable to energy projects. If we keep rapid growth and its problem as the frontpiece, the attention getter, as opposed to energy development, which is more timely or a more visual problem to most of us in these times, it would be helpful.

There is an emphasis upon major projects. There is an attempt to qualify projects by their size. I would simply draw your attention to the fact that various impacts or, that is, rapid growth situations, can occur from an accumulation of relatively small decisions. And I would cite one out of the midseventies in your own State when four Trona (phonetically) operators, all without coordination, either among themselves or the local community, decided to expand their facilities. It just happened there was a powerplant being built in the neighborhood as well, and all hell broke loose as a result of that in the Evanston region. The overthrust region, is also a very good example that. There are two major plants going up, but all of the other activities taken cumulatively, would have itself caused

problems worse than the kind of attention that your bill brings. So I would hope that somehow both the project size on a specific individual case, as well as cumulative, could be provided for as qualifying criteria.

The fiscal impact, Congress and the administration, has expressed a great deal of concern. It has been our feeling, and it even becomes stronger as the development of projects here in this part of the world are being spaced out by events in the oil world, that the fiscal impact is going to be relatively small, it is fundamentally only a timing effect, anyway, where the Federal Government is going to get those revenues in the future, having given up revenues now by granting current deductibility, so it's not a grant.

Senator WALLOP. It's a cash flow thing.

Mr. WILSON. That's right. It's the timing. We would rather have the dollar now than later, and the Federal Government should, too. But it's not like we are taking Federal funds and giving a grant to these situations.

Moreover, it's been observed here today that many companies will make expenditures to buy a fire engine or whatever, over and above, let's say, expenditures against some kind of plan that might qualify as a deductible. Now, they are deducting, to the extent that the code permits them. They are deducting those kind of expenditures now, in any case. What happens, the company makes two expenditures. It makes the ultimate conventional tax expenditure in the local community, and makes the special impact mitigation expenditures, and the Federal Government loses both times. So it seems to me the companies would be benefited by not getting a double dip, and the Federal Government, then, would be benefited by not being double-dipped if we merged these into a single payment of local tax that itself is directly used to mitigate the problem.

Well, that really covers the points of empahsis I wanted to bring before you. We are really grateful for your interest and your willingness to appear back out here in the home country.

Senator WALLOP. Bill.

Senator ARMSTRONG. Perhaps, Mr. Wilson, this is in your statement, but how many constituent members are there of the Impacted Assistance Ad Hoc Committee?

Mr. WILSON. Well, we have 50 members of the council in total. And any of our members can participate in any ad hoc committee. And sometimes we will have a dozen or more at a particular meeting.

Senator ARMSTRONG. But the question I was getting at, we are really talking about the industry.

Mr. WILSON. It's really every utility in the Rocky Mountain region, several oil companies and transportation companies, so on. It's not 100 percent, but——

Senator ARMSTRONG. It's a very broad cross section.

Mr. WILSON [continuing]. Yes.

Senator ARMSTRONG. Also, my impression, at least, and I gather you would verify this, it's a group of people who are really experienced in the day-to-day problem and wrestled with it at every level.

Mr. WILSON. Absolutely.

Senator ARMSTRONG. Very good. We are grateful for your testimony. It's right on target.

Senator WALLOP. Give me a little help in this dollar figure. I know $50 million was pulled out of the sky. We started in Wyoming with $50 million and with the index now, it's up over 80, and in some respects, it's not doing us very much good anymore, any longer.

But what we don't have in mind, I think, is a rapid bonding issue where you can go out and get, you know, everybody that is doing business, to prepay a couple of years' taxes. You know, the sort of local fast food concept in municipal building or otherwise. So somewhere in there, you have to try to come up with some sort of figure that addresses it, and perhaps what we don't need is a figure with some other definition. Have you given that any thought?

Mr. WILSON. Well, we have, some, and would certainly be willing to give it some thought.

Senator WALLOP. I might pass that on to the mayors and the other county commissioners.

Senator ARMSTRONG. Let me add to your thought process a word of caution, $50 million is arbitrary. And the definition in the bill is an arbitrary definition. But bear in mind, one of the fastest growing areas in the country is Orlando Beach, Fla., at Disneyland, and if we are not cautious about how we define this, we run the risk of opening this bill up to areas like that, which, for tax reasons, Congress wouldn't want to be sympathetic to.

Senator WALLOP. And for growth they are actively seeking, which is not the point.

Senator ARMSTRONG. Right, exactly. I'm not saying the bill can't be fine tuned. But the way it's tuned up now, Senator Wallop and I can honestly go to our colleagues and say this is in response to a real problem in communities that are faced with an enormous crunch of population. But if we refine it in a way it covers Orlando Beach, Palm Beach, Aspen, I don't know what all, the sympathetic feature we have on our side will disappear.

And, second, the dollars will balloon in a hurry. I have heard some numbers under development by the Joint Tax Committee, and rather than cite them here at this moment, I will say they are modest in comparison to the total budget in general. But if you open this up and make it available for the local communities on a broader scale, it could get to a very large number in a hurry. If we do that, we are talking about a bill which might pass in 1993, rather than 1982.

But your point, nonetheless, is well taken,

Mr. WILSON. The area is fundamental to all of our thinking. I think the social scientist might tell you that in Evanston, tomorrow, you are talking about growth that is huge, relative to the base.

[The prepared statement of James E. Wilson follows:]

Statement by

James C. Wilson, Chairman

Impact Assistance ad hoc Committee

Western Regional Council

Before the Senate Finance Committee

Grand Junction, Colorado

April 16 , 1982

Thank you for the opportunity to present testimony today on behalf of the Western Regional Council in regard to S.1919 and related bills. I am James C. Wilson, President of Rocky Mountain Energy. I appear before you as the Chairman of the Western Regional Council's ad hoc Committee on Impact Assistance.

The Western Regional Council is a coalition of Chief Executive Officers of 47 corporations active in the Intermountain West. It includes major financial, utility, manufacturing, mining, energy, and other business interests and provides a common voice on issues of particular concern to the Rocky Mountain business community. The WRC appreciates the Chairman's personal interest in the impact assistance issue and is pleased that the Finance Committee is actively considering these proposals.

In recent years the Western Regional Council has closely followed Congressional action on the issue of impact assistance to communities experiencing rapid growth related to energy and

natural resource development. The WRC is extremely interested in seeing the necessary front end planning and funding mechanisms put in place to enhance governmental/project sponsor cooperation, to reduce project delays and associated costs, and to minimize potential personal and community-wide stress and disenchantment too often experienced in rapid growth communities.

Past Federal Programs

Congress has recognized some degree of federal responsibility for governmental actions which increase energy and natural resources production and in turn cause population relocations that affect local government's ability and costs of providing basic public services. This was most noteably demonstrated in the Federal Coal Leasing Act Amendments of 1976 and the 601 program of the 1978 Fuel Use Act.

The Coal Leasing Amendments increased the state's share of royalties collected under the 1920 Mineral Leasing Act from 35½ percent to 50 percent. That increased share was "to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service;... ." In justifying that change in royalty distribution, the House report on the Coal Leasing Act Amendments

noted:

"When an area is newly opened to larger scale mining, local governmental entities must assume the responsibility of providing public services needed for new communities, including schools, roads, hospitals, sewers, police protection, and other public facilities, as well as adequate local planning for the development of the community... . An effort must be made to alleviate these problems by making funds available for the various aspects of community development." For the second half of FY 1981, the state's share for 23 states under the Mineral Leasing Act totalled $210,286,892.

Section 601 of the Industrial Fuel Use Act P.L. 95-620, authorized federal planning grants to local communities; federal acquisition and transfer of land to the state for development sites; and grants for site development when:

1. Coal or unanium development and transportation would increase employment by 8%.
2. Substantial public facilities, services, and housing will be required;
3. State and local governments lack the financial and other resources to cope with this increase;

and the Governor, with the Energy Secretary's approval, has designated the area as an energy-impacted region. The law authorized $60 million in FY 1979 and $120 million in FY 1980 to carry out the program.

During the 96th Congress, legislation was introduced to dramatically increase the scope of the 601 program raising the authorization to $400 million per year. Additionally it required states and communities to go through a costly and complicated qualifying process to become eligible for assistance. That legislation did not pass and the now 601 program itself is no longer funded.

Failure to enact a larger 601 program and the subsequent demise of funding for that program reflects a growing opposition to massive federal spending and to the federal bureaucracy's intrusion into matters which can be handled more simply and at a lower cost locally. The President's initial goals of reduced spending, tax cuts, and regulatory reform, coupled with his proposals for a "new federalism," and a similar mood in the Congress and the public at large, preclude consideration of any comprehensive direct federal energy and natural resource development impact assistance program. Even if there were enthusiasm in Washington for such a program, few State and local governments or industry project sponsors would embrace it and the inherent bureaucratic processes and regulations.

While the state's share of Federal Mineral Royalties has been helpful, it is not an answer in itself. Each state legislature determines its own priorities for the use of those funds. To date they have not been able to satisfy total up front impact community financing needs.

Need for a New Approach

The Western Regional Council believes a new approach to the problems of impacted communities is sorely needed. That need has been emphasized by the forecasts for project development and workforce projections and by recent "hold hostage" actions by western local governments.

High interest rates, a current world-wide glut of crude oil, and softened mineral markets have temporarily de-accelerated energy and natural resource development. However, recent projections for development activity are probably still an indication of the numbers of projects which may come on line and the magnitude and frequency of impacted communities.

In March 1981, the Western Governors Policy Office isrued its report "Energy Activity in the West," which forecasted 205,000 new, direct, on-site jobs in oil, gas, uranium, coal and synthetic fuels in the WESTPO states within ten years. The report estimates the total, local population associated with those workers could reach over a million with a public capital construction cost of $13.1 billion.

In January this year, the Uintah Natural Resource Association, a coalition of 17 companies concerned about mitigating socio-economic impacts of their projects, projected a cummulative work force going from 2600 in 1982 to 9160 in 1985.

These forecasts are continually changing and are influenced by markets and interest rates, but are indicative of the size and impact of potential projects and the need for mechanisms

for positive community response.

The need for a new approach has further been amplified by local governments, lacking the resources to effectively cope with rapid growth, beginning to withhold local use permits until industry project sponsors agree to meet local demands for up-front payments or the construction of public facilities to accommodate anticipated community growth.

This "hold hostage" practice has the potential for negating comprehensive, coordinated long-term community growth planning and neglects full use of available alternative funding sources. It invites "overboard" mitigation where the community may be tempted to extract from the project sponsor community improvements and facilities beyond its needs and beyond the long term carrying capacity of the local tax base. Finally, it contributes to project costs and delays and may discourage project location.

It is within this context that the Western Regional Council has pursued a new approach to address the issue of assistance to development impacted communities. Past proposals of federal grants, loans, and approvals are no longer politically feasible nor desired by local governments or project sponsors.

The WRC's Proposal

The WRC is recommending a set of proposals it believes is a viable new approach to the impact assistance issue.

In essence, the Western Regional Council recommends current, same year, deductibility on the federal income tax return for project sponsor expenditures, payments (including pre-payment of taxes), and charitable contributions made for the purposes of implementing an impact mitigation plan. The Council proposes that the impact mitigation plan be approved by a local governmental/industry planning committee, and be determined to be completed by the states' Governor, or if on Indian lands, by the tribal chairman. A more complete presentation of the Council's proposals is attached for the hearing record.

The WRC believes there are two essential ingredients: 1. a coordinated, locally focused, intergovernmental planning process which includes project sponsors; and 2. funding mechanisms to finance planning and the actual construction, operation and maintenance of needed public facilities and services.

The WRC believes the planning process is crucial. Our proposal balances that process within the jurisdictions of local and state governments, includes project sponsor participation, affords participation of multiple jurisdictions, and provides adaptability to specific localities and situations. The impact mitigation planning process would assess anticipated growth

and the requirements for supplemental services and facilities; explore all available funding sources; develop a mitigation plan; and identify responsibilities of various entities in plan implementation.

As a part of the planning process, all potential sources of revenue available should be identified and explored. Existing potential revenue sources should be used to the fullest extent practicable and where possible, these should be leveraged against anticipated future revenues through bond sales and governmental loan programs.

The WRC believes that sufficient local revenues will be generated over the life of a project to more than adequately finance the costs of associated new public facilities and services. Those revenues, however, without special provision, will not be available when most needed, on the front-end of project development. The WRC endorses actions to make a portion of those revenues available in a timely manner. However, they should not be viewed as a sole source of impact mitigation funding.

Four western states, Colorado, Idaho, Montana and Utah have each enacted some form of legislation to authorize the prepayment of state and local taxes to resolve this timing problem. In addition, S.1484 pending on the Senate Floor, authorizes the prepayment of rentals on federal oil shale leases and may be amended on the Floor to authorize prepayment of federal oil shale royalties.

Pre-payment as authorized by these measures, however, will not be attractive to the project sponsor without accompanying changes in the Internal Revenue Code. Payments of state and local taxes are deductible on the federal income tax return, however, they may only be deducted in the year actually assessed. For example, a project sponsor which in cooperation with a local government chooses to pre-pay a portion of his anticipated local property tax for the next ten years (as authorized under a state statute) would not be able to deduct that payment at the time it was made, but would have to wait until that tax would have normally been assessed and paid. There is currently under the Federal Tax Code, then, a disincentive to provide project sponsor community assistance through pre-payment.

In addition, the federal tax treatment for direct expenditures or contributions by a project sponsor to assist a community in providing public facilities and services is not clear. It is sometimes questionable whether providing a facility to a local government would be a deductible contribution or whether it is a necessary project cost and should be capitalized and depreciated over the useful life of the project.

The benefit to the community is immediate and where such expenditures or contributions are appropriate, the WRC believes the project sponsor should clearly have the option to deduct them directly on the Federal Income Tax Return.

Because each project sponsor is unique and the potential for profit from a specific proposed project may not be realized

until some years after either pre-payment or impact mitigation expenditures are made, the WRC further advocates that the loss carry forward limitations in the Code be lifted for these specific deductions.

S.1919

S.1919, the subject of these hearings, and S. 1731, also referred to the Finance Committee, address the primary federal actions sought by the Western Regional Council in its proposals.

S.1919 provides for current deductibility in the year paid for pre-payment of state or local taxes, fees, rents, or royalties as authorized by state or local law and when used for impact mitigation purposes. It clarifies and establishes the deductibility of payments and contributions to state and local governments to provide "qualified public facilities and services." It further provides deductibility for losses incurred by a purchaser or guarantor of a state or local bond issued to provide public facilities and services.

The WRC endorses the concepts in S.1919 and would make only a few specific comments to the Committee.

The bill contains definitions of "qualified energy impact expenditure," "operation of major energy and resource development activities," "qualified energy impact assistance amount," and "qualified public facilities and services." The bill defines these items and the WRC feels that is helpful to avoid subsequent restrictions on the application of the measures by federal regulation.

We do question, though, the definition of "operation of major energy and resource development activities." The definition targets the size and kinds of projects which would be eligible for deductions. The WRC is pleased that the definition would include both energy and natural resources development and processing, but we are concerned that as worded it may unnecessarily restrict application. In situations of dispersed development, like that in the Overthrust Belt, project sponsors may not qualify. Development activity by a number of companies or at several smaller facilities may contribute to an overall cumulative impact within a locality. By restricting the definition to "operation of major" activities and to a "facility" that has capital expenditures or gross income of $50,000,000, those dispersed development situations may be excluded from participation under the bill.

For oil and gas activities in particular, we recommend that "operation of major" be deleted from the phrase "operation of major energy and resource development activities" and that in (b) (2), lines 22, 23, and 24 on page three and lines 1 and 2 on page 4 be deleted. If the Committee wishes to retain a dollar criteria, we suggest that the definition be expanded so a "facility" may include a number of separate units within a governmental jurisdiction that when taken together would meet the criteria.

The WRC would also suggest that the definitions, title, and provisions of the bill consistently reflect what we understand to be its intent of being applicable to not only energy

but also to other non-energy mineral development activities. Development of a non-energy mineral mining operation, a smelter, or other mineral processing facilities has the same kind of potential for socio-economic problems. The definition of "operation of major energy and resource development activities" would indicate that the sponsors' intent is to include these kinds of operations. To provide clarity, we recommend that "and resource development" follow "Energy" in the title and elsewhere as appropriate.

The WRC's proposals see planning and funding as two essential parts of addressing this issue. S.1919 has no mention of local or state planning processes or project sponsor involvement in those activities, and we understand the sponsor's reluctance to include such provisions. We are concerned, though, that without referencing a cooperative planning process as we have advocated, these provisions alone may serve to exascerbate the potential for local governments to look solely to the project sponsor for mitigation funding and to withhold permits pending project sponsor commitments. We continue to believe there is a desirable linkage between planning and deductibility to avoid "hold hostage" and sole source funding demands.

The Western Regional Council recognizes that both the Administration and the Congress are extremely concerned about budget implications of any legislation and particularly with tax matters at this time. The business community shares those concerns. The WRC is convinced, though, that the federal budget

implications of S.1919 are minimal and whatever effect there may be is justifiable from a policy perspective and in promoting a return of program responsibilities to state and local governments.

While at this time, given current economic conditions, it is extremely difficult to accurately predict the number of new project starts, or the rate of construction, or the potential project and cumulative work forces, there are some general valid observations that can be made.

In regard to budget implications of pre-payment of taxes, only four states have thus far authorized pre-payment and in turn only projects located in Colorado, Idaho, Montana and Utah could qualify. Each of those states has required procedures for prepayment which will further limit use of prepayment. In Colorado, project sponsors may prepay severance taxes and property taxes. The project must meet a size requirement similar to that in S.1919, and the project sponsor can only prepay ad valorem taxes to local governments up to 25 percent of the project's estimated tax liability to that government over 20 years.

In Idaho, prepayment is limited to 50 percent of the ad valorem taxes anticipated during the first one-half of the term of the impact period not to exceed 10 years. A local impact committee must determine need, estimate ad valorem taxes, prioritize public facilities, and approve the project sponsor's prepayment.

In Montana, prepayment is authorized only for large-scale hard rock mineral operations. A hard-rock mining project sponsor

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intending to develop a site must petition the "hard-rock mining impact board" which ascertains that the project sponsor will pay all increased capital and net operating costs to local governments. After issuance of necessary approvals to begin operation and upon request of the county commissioner, the project sponsor can be required to prepay property taxes equal to at least three times the estimated property tax due the year of operation start-up. For hard-rock mining in Montana, therefore, prepayment is not always optional. Deferral of deduction on the federal return until assessment in this case could be construed as penalizing the developer for compliance at the state level.

Utah's law authorizes prepayment of ad valorem taxes. Prepaid ad valorem taxes are to be utilized within the context of an impact alleviation plan.

Not all projects authorized in those states will qualify for or choose to prepay taxes. Those taxes would be deductible at the time of assessment normally. The long term cost to the federal government, absent inflation factors, will be the same.

If prepayment is not currently deductible on the federal return, project sponsors are less likely to use it and in turn may make direct contributions or payments to local governments which will either be deducted or capitalized. When that option is taken, the federal government will experience a greater revenue loss over the long term. Both the direct contribution and the local taxes will eventually be deducted. The federal government

stands to gain with the one time prepayment deduction.

It is also difficult to determine at this point the dollar amounts which may be deducted as a "qualified energy impact assistance amount" under S.1919. However, it should be noted, that under current economic conditions, operations are being shut down and planned projects are being deferred. It should not be anticipated that there would be immediate budget effects from this measure. Furthermore, these expenditures, depending upon the project sponsors treatment, are usually already amortized meaning over the long term substantially the same federal cost.

Perhaps it is more important to look at the potential positive revenue implications of these tax measures. If the concepts in S.1919 are enacted, project delays and additional costs associated with delays can be reduced through the additional means and incentives afforded to cooperate with local governments in addressing community growth needs. If the project can come on line faster, if the community can move ahead more quickly in building facilities and employing public service personnel, the project, its employees, and those employed indirectly throughout the community will sooner be generatirg federal revenues. We believe that once these measures are in place overall budget effects may balance out and that in the longer term there will essentially be little if any federal cost. When compared to old proposals for a $400 million a year federal impact mitigation program, the difference is striking.

Lastly, the WRC believes this measure is entirely consistent with the President's initiatives to transfer programs and responsibilities to state and local governments. While this proposal is for federal tax deductions, we see it as a piece of the impact assistance package, one that is administered at the state and local level and driven by state and local needs. The federal deductibility is necessary to make the state programs and prepayment work. This measure is in the spirit of a new federal/state partnership and we are hopeful the Administration will endorse it.

Again, the Western Regional Council appreciates the opportunity to testify on S.1919 and thanks the Committee for its interest and work on the measure. We stand ready to be of assistance in any way we can.

Attachment

ATTACHMENT I

WESTERN REGIONAL COUNCIL

RECOMMENDATIONS FOR AN

IMPACT MITIGATION PLANNING PROCESS

AND FUNDING MECHANISMS

To address socio-economic community impacts caused by rapid growth related to energy and resource development projects, the Western Regional Council proposes a locally-focused impact mitigation planning process. This process would identify existing revenue sources and allow a project sponsor to receive current federal tax deductibility or credit for appropriate mitigation expenditures. The proposal would promote cooperation between local governments and industry in mitigation planning and funding. It would also provide for gubernatorial or Indian tribal chairman impact planning oversight.

Further, the proposal provides for federal participation in the planning process. This would be warranted by different circumstances and as deemed appropriate by the local community planning committee. The WRC proposes a flexible planning framework for differing impact situations resulting from energy and natural resources development. An example would be situations involving multi-governmental jurisdiction.

The proposal targets federal tax deductions or credits to expenditures made by a project sponsor as a part of an approved mitigation plan. In that sense, it provides incentives for industry/government cooperation and coordination throughout the planning process and subsequent implementation.

The Proposal

When the industry project sponsor anticipates a significant* total

*Various figures and time periods have been used in establishing threshold levels of growth to trigger impact assistance programs. Senator Hart's bill cites 8 percent population growth over three years. The Montana legislature has used growth of 15 percent or operation employing at least 100 people. A definite percentage of population growth over a set time period needs to be cited here and in any subsequent legislation. Those figures must be justified in the legislative hearing process by completed demographic and sociological impact studies. These would substantiate their applicability and enable them to be retained in the legislative process. The alternative is to have federal regulators and the Internal Revenue Service set their own impact threshold numbers.

population influx in a potentially impacted area due to energy and/or natural resource development, certain criteria must be met to qualify for federal or state front-end funding incentives.

Planning Process

Upon determination of possible project-related community impacts, the project sponsor will notify the local governing body of possible rapid growth impacts and indicate the sponsor's desire to initiate a planning process. The sponsor will provide the local government with available preliminary data. This would include among other things, the project(s) nature and location, anticipated construction work force and permanent work force.

Once a community is notified, a local impact mitigation planning committee is to be organized and would include representatives of affected local governments and the project sponsor(s). To be a true working committee, it is anticipated that the actual size of the committee would be small. (Initiative for committee formation may lie with either the project sponsor or local governmental officials.)

When the planning committee has been formed, the governor (s) or tribal chairman of the States(s) or Indian lands where project related rapid growth is anticipated have 45 days to concur that:

1. Anticipated impacts from project development justify impact planning; and

2. The committee's membership includes representation from appropriate entities, including project sponsor(s), to develop a workable mitigation plan and strategy.

3. In the case of a governor's concurrence in the committee's formation, the governor determines the eligibility of the committee for planning funding to be derived from the states' share of Federal Mineral Royalties as appropriate and authorized under 30 USC 191.

After obtaining such concurrence, the committee shall develop an impact mitigation plan incorporating agreed upon funding and assistance sources. These may be available through actions by all participating parties including the local, state/or tribal and federal governments and project sponsor. Responsibilities of each entity for implementing the mitigation plan shall be identified.

Upon the committee's completion of an impact mitigation plan, the Governor(s) or Tribal Chairman, who originally concurred in the committee's formation, shall determine that the plan is complete.

State and Federal Participation

The level of state and federal participation may be affected by the magnitude and circumstances of anticipated impacts and types of decisions confronting the impact planning committee. Such participation may include:

State - Where applicable by appropriate state or federal actions, planning assistance monies could be made available through the state to the committee. These would be further justified by gubernatorial reviews of committee formation and complete review of a final plan. The committee may request designation of a state liaison official for consultation or more direct state participation in committee deliberations. Such request would accompany the committee's original formation notice to the Governor or could be submitted at a later date.

Federal - Different circumstances may warrant no or substantial federal cooperation. If decisions of federal land managers or other federal officials are key to impact planning strategies, such as facilitating federal land conveyances or exchanges, the planning committee may wish to have their cooperation early on.

Upon organization of the impact planning committee, it should request such federal participation and cooperation if needed. The request should be included in the committee's formation notice to the governor.

Planning Committee Functions

The local planning committee will review, assist in and assure that the following tasks are completed:

1. Assess cumulative impacts and estimated population growth from foreseeable energy or natural resource development and determine future community needs.

2. Design and/or review and implement an impact mitigation plan identifying responsibilities of the project sponsor, the state or Indian Tribe, local government and federal government if needed. Permitting requirements to be met during plan implementation would also be identified.

3. Identify and seek available technical assistance and all available conventional and non-conventional sources of mitigation funding from federal, state, county and local governments. These would supplement any mitigation contributions made by the project sponsor and/or any anticipated front-end monies through the project sponsor's prepayment of federal, state, or local fees, taxes, rents or royalties authorized by local, state or federal law.

4. Establish planning and implementation time schedules and select a committee chairman from the local elected officials on the committee. The chairman will ensure deadlines are met by the committee and appropriate update and follow-through actions are taken until the committee is disbanded upon completion of its purpose and functions.

Responsibilities of Committee Members and State and Federal Cooperation

Industry Participation - The project sponsor would appoint its representative(s) to the team. The project sponsor is also encouraged to initiate the planning committee process by early local government notification and by providing preliminary planning and funding recommendations. An industrial association may warrant full representation on the committee in the case of dispersed development. Industry representation would provide current project data and technical planning assistance. Industry would also indicate its intentions to provide funding, pre-pay taxes, make use of contribution incentives or otherwise defray impact costs.

Local Representatives would set local funding priorities, examine current uses of local revenues; provide information on existing infrastructures and public facilities and services; outline options for raising additional local revenues to help meet front-end financing requirements; and participate in innovative financing arrangements.

State Cooperation would vary with the nature of the impact and desires of the impact planning committee. It could include, funding and technical assistance for planning. These planning monies might be derived from the state's share of federal mineral royalties. State participation would further assist localities in obtaining state financial aid and possibly allow state participation in innovative financing arrangements.

Federal Participation may be warranted by impact projections and its nature and location. The committee could request federal cooperation to provide information on in-process federal land use or project decisions, federal assistance programs, expediting of loan or loan guarantees or innovative funding proposals.

FUNDING MECHANISMS

The planning process should explore and identify all potential sources of revenue available for implementation of a mitigation plan. While project sponsor payments of fees, taxes, rentals and royalties over the life of the project will in most cases, greatly exceed community impact mitigation costs, they will not, without special provision, be available at the front-end.

The WRC recommends actions to make a portion of those available in a timely manner to meet front-end funding needs. However, these proposed measures should not be envisioned as a sole source of implementation funding.

Existing potential revenue sources should be used to the fullest extent practicable. Where possible these could be leveraged against anticipated future project-related tax income through bond sales and state, federal or private loan programs. Thus, impact mitigation costs can be better distributed over the project's life. Further, distortions in project cost can be reduced, and long range planning of available revenues for future local needs can be more precise.

The Western Regional Council suggestions for planning and mitigation funding recommendations and possible state actions are listed below. The proposals for mitigation funding would require federal legislation.

Planning - Under the Federal Coal Leasing Act Amendments of 1976, the State's share of federal mineral royalties was increased to 50 percent. State Legislatures were directed to give "priority" in using the revenues for planning and mitigation assistance in impacted subdivisions (30 USC 191). An appropriate use of these monies would be state funding of the impact committee's planning process.

Mitigation - Expenditures made for the purposes of impact mitigation and as a part of the implementation of an impact mitigation plan, as cited above, shall be eligible for the following tax treatment:

1. Prepayment of local, state, and federal taxes, fees, rents or royalties as authorized under applicable law shall be allowed as a deduction for federal income tax purposes in the same year paid.

2. Financial payments or other contributions of value made for the purposes of impact mitigation shall be allowed as a deduction for federal income tax purposes in the year paid.

3. An optional refundable tax credit rather than a deduction for items under 1 and 2. This optional tax credit shall not exceed the equivalent benefit as an income tax deduction for the same items. Further, it should have no greater impact on the federal revenues than a deduction.

4. Removal of the federal income tax cap on deductions for charitable contributions when such contributions are made for purposes of impact mitigation.

5. Project sponsor mitigation contributions and expenditures being made in regard to currently ongoing projects should be grandfathered and eligible for such tax deductions or credits.

State Actions - The individual states could take a number of actions to facilitate funding of mitigation plan implementation, including:

1. Authorization of prepayment of taxes, fees, rents, or royalties when prepaid within the context of a mitigation plan as cited above and such other state actions necessary to make such prepayment a viable front-end funding source.

2. Deductibility for prepayment or mitigation contributions on state income tax returns.

3. Adjustment of bonding and indebtedness ceilings to give impacted communities greater flexibility in pursuing funding options.

These and other possible state actions will continue to be explored in cooperation with other organizations and the states.

Senator WALLOP. This is something that is extremely difficult to get across to our colleagues who come from areas who are actively and desperately pursuing growth of any kind.

I think in terms of my first experiences on the Environment Public Works Committee, and Senator Muskie was saying that they didn't want to grant these communities sewer grants any longer because, why should we pay for their realtors to make a profit? And we kept saying, hey, it's different where we come from. These are not communities seeking growth, and in many instances, they are resisting it, but it's being thrust upon them and they can't avoid it, and haven't.

Senator ARMSTRONG. Well, the numbers are hard to conceive because there are more people working in the Dirksen Building than there are in Garfield County. Maybe that's not right, but that's close—that's not too far away.

What was the testimony? What is the size of Garfield County now?

Mrs. QUIMBY. 6,000.

Senator ARMSTRONG. Well, you see, that's not too far away. Counsel says there are 8,000 people on the Hill, but I think he's just referring to the Senate side. I think there are 17,000 people employed on both sides of the Capitol. And so it's very hard, and if you come from Chicago, to understand the problems of Rangely or even of Grand Junction, very hard to understand.

Senator WALLOP. That's also why it's very hard for them to understand why it does much to clear the atmosphere when we get involved in some of those things.

Senator ARMSTRONG. That's right.

Senator WALLOP. That concludes the list of people who have formally requested to testify.

Is there anybody in the room who would wish to make a statement or comment on this?

Yes. Would you identify yourself?

STATEMENT OF TED NATION, MEMBER OF THE TWO RIVERS CITIZEN'S ASSOCIATION

Mr. NATION. My name is Ted Nation. I haven't formally prepared a statement, but I am from one of the local citizens group, Two Rivers Citizen's Association. I just wanted to raise a certain concern, some of which have already been raised and dealt with rather well, one of which I don't think has been dealt with too well.

No. 1 is, of course, the mismatch of jurisdictions, and what's already happening in Mesa County. We see a problem here already, even with just the beginning of the development of the industry, in the fact that we have—well, for instance, a 1-percent housing vacancy situation; inflation in low-income housing that affects the elderly and the low-income and moderate-income people drastically, probably to the point that some of the people will have to leave the area simply because they can't afford to live here. So I just would like to caution that this bill might be a step in the right direction, but it's certainly not the total answer to all of these things.

Senator ARMSTRONG. That's right.

Mr. NATION. The other thing—one of the other things I wanted to mention was the problems associated with maintaining the dependence of local government entities and of institutions that receive benefits from the industry. If we have a situation where all of these institutions and government groups are looking to the industry to prepay taxes to handle this situation or that situation, I am fearful that it will create a situation where the governments and institutions, like colleges and such, will really not take an independent position between other citizen positions and the industry. We had something that approached that at Mesa College in January 1981 when we sponsored an oil shale conference that, admittedly, primarily emphasized our point of view, but it also had a lot of government people involved in it, had a lot of industry people involved in it, but we received pretty clear indication from the college that they were upset by some things that happened in that conference, simply because they were receiving, or intended to receive some funds, donations, from some of the oil shale companies. I think that is a real risk in what you are proposing. I don't know what you would do about it. I certainly don't think it's a risk that outweighs the benefits of the bill. But I would certainly like the industry to be sensitive to that, and the Senators, and whatnot, to be sensitive to it.

There are probably several other things that I could bring up here. I think rather than stretching out your afternoon, I will leave it go at that and I will probably write some written comments to Mr. Armstrong, anyway, that you could enter into the record if you desire.

Senator ARMSTRONG. I would be very grateful to have those.

Senator WALLOP. The hearing record will remain open 2 weeks for any further comment.

I would say this, no matter where one derives a source of funding to mitigate a problem, you lose a certain amount of independence. I would think that anybody who has been in government around here, and who has relied on the Federal Government for a source of funding, would realize how little independence is attached to that. That is a problem that is already with us. And if you substitute the State for the energy company, you will owe it to Denver. If you substitute Washington for Denver, you will owe it to Washington. Everybody who has it will seek to put some level of influence upon it. And the diversity of this plan, I think you will find, lies in the fact that it is (A) not obligatory, and (B) it is at least a matter of negotiation between the parties, whereas I think the people's experience with funding from Washington has seen very little negotiation and a great deal of criteria.

Mr. NATION. Certainly, that is true in a large measure. But you have to recognize these are huge institutions, these oil companies, in comparison to other local governments or any or our other institutions, and they do pack a tremendous amount of influence, even without this kind of a situation. So it's a problem.

It also just occurred to me that I would like to emphasize that the topic came up as to whether we had sufficient planning. I think Senator Wallop raised the issue in the area to deal with these things. I would certainly like to go on the record to say we certainly don't have that kind of funding in Mesa County. I doubt we have

it is Garfield County. I know the impact funds that have been used have been primarily used in the area of capital development projects, most of it. Very, very little of them, particularly in Mesa County, have been used in the human impact areas. That's why we have the kind of housing situation we have. And I find myself somewhat agreeing with the previous testimony here that it would be nice to have some of this done in the context of a plan that really did address all of the issues and not just the pressures that the local government felt, you know. There is a tendency to buy the fire engine and to build the school, and to leave a lot of these other things going on. It's a place for battered women to go in a boom town, and stuff, to safe houses and such, and I think those are real critical needs in boom areas, just as all of the capital needs.

Thank you.

Senator WALLOP. Thank you very much.

STATEMENT OF LEE KAPALOSKI, MEMBER OF THE UTAH ENERGY COUNCIL

Mr. KAPALOSKI. Thank you. My name is Lee Kapaloski. I think I am at the wrong hearing, I'm listed on the wrong day. I have been conversing with Mr. Wallop's staff about testifying. I am a private attorney in Salt Lake City, also a member of the Utah Energy Council who has been grappling with this, and also chairman of the local government sector in the Utah State Bar Association, and in some capacity of a combination of those entities—also our firm represents a variety of these small sewer and water districts which do in fact respond to what we have been talking about today. I will not take much time because, frankly, testifying at the end of a hearing, you have a lot of your thunder taken away from you.

I'd like to only embellish a few comments that were made earlier, and also just point out a few questions that I think will have to be raised.

One earlier comment about the prepayment of property tax in the State of Utah. Our committee of the State bar has raised some of these questions of uncertainty as to what do you do if in fact you collect a lot more tax that is never in fact a liability. Although it has been stated in here, and I agree, the intent of the bill is to have that as a loss, if anyone has dealt with the bond council, or a tax attorney at a city level, that issue, we think, should be clarified.

I think the theme of what my testimony will be, the bottom line is certainty in clarification. I think the undertone of a lot of the testimony today was, this was to clarify some ambiguity, and to in fact make clear what is the intent relative to tax credits and tax deductibility.

We do represent a variety of energy companies, ourselves and we do know, as a matter of fact, the more certainty you create in the process, the less the council to the energy companies are going to raise questions and delay any activity at all. Stated another way, the less you have the attorneys making those judgments, the more you have them on paper, the better off you probably are. I do say that, myself, personally.

Senator ARMSTRONG. You said that. I have dealt in it.

Mr. KAPALOSKI. I have a few comments. Relative to the bill, there is, I suspect—I was not going to get into specific language—but it sounds as if today we have got to that point.

Senator WALLOP. You can, if you wish, submit specific language, amendments.

Mr. KAPALOSKI. Yes. On what is a qualified facility, the term "electric generation facility," limits that definition to those generation facilities in the immediate area of the coal, or at least the implication is such in the bill. I would only point out that the largest coal-fired powerplant being built right now in the United States is in Utah, and the nearest coal is 120 miles away, which in essence, then, would not qualify this entity, which is a $3 billion up to now $6 billion facility, to be included in such a bill. The issue of——

Senator ARMSTRONG. Will it have a drastic effect on population in the whole area?

Mr. KAPALOSKI. Yes. Probably the most dramatic ever had. In this case, another Delta County, a twin county in Utah, that has been approximately 3,000 people, a rather stable population base, increasing approximately fivefold in 5 years. I think it's rather dramatic, rather extreme.

Senator ARMSTRONG. Fivefold?

Mr. KAPALOSKI. Fivefold. That is an estimate. Again, we live with estimates here, and again, uncertainty.

Senator ARMSTRONG. Yes.

Mr. KAPALOSKI. The other issue which I would like to mention, frankly, and that is this troublesome term of $50 million. And I understand your concern about where do you set that line. I think Mr. Wilson's comments about the overthrust area, the county we have, which is Uintah County, which is receiving a lot of impact, primarily from small oil operations, many of which do not in fact qualify as a $50 million facility. I would suggest some way to incorporate a definition, coming from the other direction, wherein the county or the entity that is going to be receiving the impact, and in fact be receiving the benefit of this incentive, define what is going to be the dollar amount of impact in its area. I know that adds a little more redtape and a few more rules, but I think it should be considered as an option in these areas, such as the Unitah basin in Utah, the overthrust in Wyoming, and other similar areas which are cumulative, rather than singular in impact.

Another comment—and again, many of my comments have dissipated through the testimony—is relative to guarantees or underwriting, if you will, of bonds or obligations. We are seeing, at least in Utah, and sitting on the energy council witnessing what is going on, as counsel to certain local sewer and water districts, an increase in trying to innovatively fund and underwrite bonds. Today's basic free grants or EPA money for these large facilities are, in essence, over. We are going through some rather innovative, I think, and imaginative programs in Utah where, in fact, in certain cases one of our clients is underwriting a sewer bond to the extent of $2 million directly. The interesting thing about this client is it's not an energy company, it's building an energy town, it's not an energy company, it's a homebuilding company. And I think perhaps if we have not overlooked this reality, maybe it is just a

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brandnew reality, and that is much of the responses to the services you are dealing with here, especially in housing is going to come from another entity, such as homebuilders, or entities which will cooperatively venture with energy companies to in fact provide the housing.

I would make inquiry, if there should be the consideration of not only considering the energy company for such credits, but, in the spirit of parity, those entities ready, willing, and able to underwrite, secure, prepay, or in any way endorse the development of the services, especially relative to housing, should be given similar consideration.

Senator ARMSTRONG. Well, if I might interrupt at this point. I wonder if we are not dropping a stitch here. The reason for this housing development, which may not be developed by the energy company, but in the case you cited in Utah, by the powerplant, but by somebody else because of the powerplant. It still seems to me that the burden ultimately comes back to the utility or to the energy company, because that's the cause of the population increase which is the problem we are addressing in the first place.

Mr. KAPALOSKI. I think, Senator, you are correct in theory and, also, I think in principle. I guess my point is the realities are, again, I'm not talking about the housing, per se, but the construction or underwriting of the services, such as the sewer facility, the water facility, the attendant services that would be required, in fact, to provide the housing. This is a brandnew area, it's just opening up, it's frankly because of no more free money, if you will, that comes to sewer and water boards and the extreme demand for housing, which I think has not been addressed clearly by a lot of people. And we are just on the cusp, if you will, of innovation. But what we are finding is the use of letters of credit, guarantees, guaranty bonds, other such underwriting by parties to build sewer and water facilities is going to become a new and rather innovative approach.

All I would suggest here is, in the spirit of tax benefits for those who do not in fact contribute up front in real cash contribution, or the equivalent, should be considered here.

I'm again, not talking about expanding the scope or creating a new dilemma, I am very sympathetic to your problems of the eastern sector understanding our realities out here, I'm only saying——

Senator ARMSTRONG. Well, if we keep the profile of the bill low enough, there is at least some prospect we could pass it this year. But my concern is—I don't think what you are saying is necessarily wrong—I'm just concerned if we raised the threshold here very much, that we will bog down, and it might be sometime before we could get it passed.

Mr. KAPALOSKI. I don't want to be misinterpreted. What I'm saying, basically, I think I'm reading in this bill these items, they are just not clear, and I would suggest in the review of the language—and I can submit, of course, written testimony which I'm prepared to do.

Senator ARMSTRONG. I think that would be helpful. But it's our notion, even if we expand it in the direction you are talking about,

it would be still tied clearly back to an impact occurring as a result of energy development. Disneyland is beyond our scope.

Mr. KAPALOSKI. No; I want that to be on the record. We have dealt with this in the State of Utah, community impact funds that grant money, the question is, What entity should get the money, what is an impacted entity, energy impacted area? Those are constantly the problems.

I think the impact is supportable from the energy council's point of view, that's clearly acceptable.

No, I'm not talking about that. Only in the sense that those that are willing to come and, in fact, participate in the prepayments and prefunding of the local obligations and services that have to be developed.

One final comment and I will basically end on that point. There was a statement earlier by Commissioner Schultz, I think, about arbitrage problems. I think that is a very real problem. I don't know if this bill could cover it, definitively, but I think it's an area that needs to be investigated.

Many of us—many of our clients, many people that are trying to participate in innovative financing are finding another limiting factor, that is arbitrage, when they do get into the bonding aspect. I don't think that is a thrust of this bill. But as an embellishment on this comment, I would like to inject that, also, again, the bottom line, and I support this as counsel for two companies and as counsel to sewer and water boards, the certainty, it is clearly a plus. Once you know and do feel comfortable that you have some certainty as to what your credits are, what your cash flow is, what your obligations are, the more ready and willing I think many of these entities would be to support it.

Again, I thank you for allowing me to testify. And I hope that you will proceed with S. 1919.

Senator WALLOP. Thank you for your testimony. And we will accept your entire statement in the record, if you want, or if you wish to submit a more detailed recommendation, you may.

Mr. KAPALOSKI. I would feel more comfortable submitting it forthwith.

Senator WALLOP. Thank you.

There being no further testimony, the committee stands adjourned until Evanston, tomorrow morning.

[The committee recessed at 4:35 p.m.]

ENERGY COMMUNITY SELF-HELP

FRIDAY, APRIL 17, 1982

U.S. SENATE,
COMMITTEE ON FINANCE,
SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION,
Evanston, Wyo.

The committee met, pursuant to notice, at 9 a.m., in Evanston High School, 341 Summitt Street, Evanston, Wyo., Hon. Malcolm Wallop (chairman of the subcommittee) presiding.

Present: Senator William L. Armstrong.

Senator WALLOP. I have a written statement which I will insert in the record at this point to begin the hearing.

[The prepared statement of Senator Wallop follows:]

Yesterday we had a very productive hearing in Grand Junction, Colorado on energy impact problems and how a bill introduced by Senator Armstrong and me may provide answers to some of those problems. Today we continue with our efforts to gain a better understanding of the adverse effects of energy impact, to learn whether our proposed legislation will help mitigate those effects, and to ascertain what changes could be made in the legislation to make it more effective.

The Congress has labored over the issue of energy impact assistance for the past several years with mixed and uniformly unsatisfactory results. Recently, we debated legislation continuing an elaborate formula for the allocation of funds to be used in mitigating problems created by energy development. What was called the West Virginia formula would have based impact assistance on the creation of re-employment defined as new employment. And, while on the face of it, it sounded fair enough, I did not believe it addressed the real problem. New re-employment does not create impact problems. It is the massive increases in population associated with energy development that creates the problem. Under the West Virginia formula, a community with high unemployment experiencing high levels of re-employment could well take precedence over a Wyoming community which did not have as much "new" employment, but had never had an energy work force of any kind to draw from. Clearly the formula was an inadequate solution to the problems which have been experienced here in our state. This legislation was not passed by the Congress, and consequently, the only specific federal program designed to deal with inland energy impact mitigation is the old 601 program. That program, of which Wyoming has been a significant beneficiary, has fallen victim to the budget cutting knife and will be phased out by the end of the year.

With budget constraints it is clear that there will be no new energy impact "grant" programs enacted by the Congress in the near or foreseeable future. What that means is that we are going to have to find creative alternatives if we are to help impacted communities help themselves. There must be a minimal effect on the Federal budget which has "impact" problems of its own. I am pleased to note that Wyoming has an outstanding record of dealing with impact problems created by our increasing role in providing truly significant new energy resources to the rest of the nation. The legislation which Senator Armstrong and I have proposed is designed to further that process.

The principal problem faced by Wyoming communities confronted with the prospect of a booming population brought on by energy development has been that of adequate financial resources up front, money that is necessary to provide water and a place to store it, additional sewer lines and treatment facilities, streets and streetlights, fire and police protection, schools and hospitals. The task is far from easy

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when growth demands the need for those facilities and services long before the tax base exists to support them. Our legislation will make that process easier to cope with by providing two things.

First, this legislation would remove a significant federal obstacle in the ability of state and local jurisdictions to take advantage of an anticipated tax base when the money is needed the most. Under ordinary circumstances, state and local taxes cannot be deducted for federal income tax purposes until the obligations to pay those taxes actually occurs. Our proposal would allow companies an immediate tax deduction when those state and local taxes are prepaid and the proceeds are used to provide necessary public services and facilities. Colorado and Utah already have in place, state laws which, to some extent, take advantage of the prepayment mechanism. In Wyoming, I understand that there is some question whether the State Constitution would allow tax prepayments. The Constitution does not appear to explicitly prohibit such action, but Wyoming Supreme Court interpretation of the Constitution has created some concern as to whether it would be allowed. We hope to gather additional insight into that problem during the course of this hearing. I believe it is imperative, if Wyoming is to be able to take advantage of the prepaid tax provisions, that adequate safeguards are built in by the Wyoming Legislature to protect communities in Wyoming from the prospect of having committed funds in anticipation of a tax base that fails to materialize.

Secondly, this legislation removes the uncertainty which presently exists in the tax code with regard to contributions made by companies to communities to assist them in handling their energy impact problems. Because it is necessary to establish that these contributions are made out of a disinterested generosity before they can be immediately deducted as a charitable contribution, many companies have shown reluctance to take an active financial role in addressing impact problems. In many instances, the Internal Revenue Service may look upon the contributions as a cost of doing business and require that they be written off over an extended period of time. Our proposal would make it clear that contributions made to provide public services and facilities for a community would be immediately deductible. It would provide a further incentive for companies to provide funds for energy impact which are not only in their best interests, but the best interests of the community.

In conclusion, this legislation is not designed to be a cure all for energy impact problems, but it should provide a flexible tool which will complement existing planning and financing mechanisms. It will not bring the horror of yet another federal government administrator telling us what our problems are and how they should be handled. Further, the long-term dollar effects on the federal budget are minimal. This legislation does not call for the spending of new federal dollars. Instead, it calls for a change in timing of presently allowed deductions in a manner which can be of great assistance to communities in need of funds to handle a very immediate problem.

Senator WALLOP. I can think of a couple of things. I surely welcome my friends and neighbors and my colleague from Colorado, Senator Armstrong, who is the author of this legislation, which I think has potential to do some good things for impact communities across America. Realizing, of course, that each State is limited by its own capability of dealing with certain provisions of it, but the effort involved is twofold. One is to direct it as much as possible to the groups that are involved in impact. The local, political subdivision, county, school districts, fire districts, cities and towns and the entities causing the impact. In the past, since I have been in the Senate, we have had several attempts at appropriating money to relieve impact for a variety of reasons. That doesn't seem a likely event, while we are struggling to reduce budgeting. The idea that you would find $100 to $200 million to distribute to the country seems a very unlikely event, but on top of it, our experience was that every time we tried to do that, we got into the continuing wrangle that Congress always has and that is to devise a formula by which those moneys should be distributed.

When I was first in the Senate and sat on the Environmental Public Works Committee, which is where that legislation went

originally and would go again if we were talking about direct appropriation and grants. The formula the underchairman of the committee always went by was 85 percent to Appalachia for taking care of their reemployment and the rest of the 15 percent was scattered around the States of Colorado, New Mexico, Wyoming, Montana, and those States. As a consequence, it has been totally insignificant as a means of doing anything at all about the problems of impact out here.

Generally speaking, impact problems are a local and State problem, but to the extent that they are caused by this Nation's energy policies and need for energy and to the extent that the rest of the country shares in the benefits derived from those problems, then there is some sort of national obligation, just as there is a national obligation to take care of problems of severe unemployment or other social problems that policies and the country create. Bills, legislation, does that very directly without involving the Government in any major kind of decisionmaking way? No bureaucracy is going to be upset as it was under other bills. No real definitions that were necessary for the compilation and computation of those formulas are contained herein. It does talk to energy related and other kinds of impact. It refers primarily to growth insparsely populated areas and not growth in the areas that are badly seeking growth, such as was mentioned yesterday by Bill. We wouldn't want to take care of the impact caused by Disneyland. That's the sort of thing, you know, where a community and area is badly seeking and actively seeking to grow and is benefiting by an idea, versus the kind of growth that is taking place here in Evanston, across southwest Wyoming, and started up through central and northern Wyoming and certainly is occurring now with some significant impact in Colorado with regards to oil shale.

The revenue effects of this, which is one reason why we have some hope that we can get it enacted, are essentially nil. They may have an effect in this year, but ultimately, in the long-term effect is that the Government gets what the Government was going to get anyway. That's the deduction of taxes. It is a cash flow influence rather than a total dollar drain of any kind on the Federal Government. We have various estimates that are rough sketches as to what it might mean this year and they are small enough that they would come under the provisions of the Budget Act, which would mean that we wouldn't need a budget waiver to pass this bill. Should it not be considered in the budget process, the revenue impacts are that small, yet it does provide this very meaningful opportunity. What we hope and the reason for this hearing is to find out how effective that may be for communities and the impacting companies to go where the impact is and deal with the impact as it is, not by some concocted formula. If you're badly in need of a school, you might, according to the Government, get a hospital built. What we have tried to do is not to decide for the communities and the political subdivisions what their impact needs are, only that they have them. Let them resolve them with the impacting energies.

So I'm very pleased and delighted. We had a very successful hearing down in Grand Junction yesterday with Bill's constituents and people involved in the oil shale, the efforts that have relieved

them in Colorado. Now, he's kindly consented to join me to see, if at all, it fits into the kinds of things that might be useful to Wyoming.

With that, Bill, again, I thank you for being along.

Senator ARMSTRONG. Mr. Chairman, I'm delighted to be here. I'm particularly pleased to have a chance to meet with some of the people who are coping with the local government problems and the impacts of energy development in your State and since I have already inserted a detailed statement about the bill in the record in this proceedings, I won't elaborate on that, but I would make the observations that it seems to me that Wyoming and Colorado are really fortunate that it has worked out for you to be chairman on the Subcommittee on Energy and Agricultural Taxation because the essence of this legislation is it requires somebody who really understands the problem. One of the difficulties that we may face as we present this in the Senate is to explain to people who have never experienced firsthand the kind of growth and impact that our communities face. That's the other reason why this hearing this morning is especially significant to me.

I'm glad to be here, but I'm particularly eager to have a record of the testimony of the people who are in the State legislature, who are the mayors and county officials and who have to make ends meet when it comes to putting in roads and sewers and schools and all the things that are associated with the kind of rapid development that we are experiencing and facing in the future. So this is very useful to me and I'm very eager to hear the testimony.

Senator WALLOP. With that and I wanted first to introduce Rodney DeArment, who is on the staff of the Finance Committee who is here to help us and this is an official hearing before the Subcommittee on Energy and Agricultural Taxation.

Lindsey Hooper from my staff and Brian Waidmann is here also.

So we will get on with it. The first witness is State representative Ron Micheli from Uinta County. Ron, if you would come up and talk. Welcome here this morning.

STATEMENT OF HON. RON MICHELI, WYOMING STATE REPRESENTATIVE FROM UINTA COUNTY

Mr. MICHELI. Senator, I appreciate this opportunity to be able to comment on the proposed legislation to allow prepayment of funds to impacted communities. I especially appreciate the effort that you have made to hold this public hearing in the heart of the Overthrust Belt. I am sure that from the testimony that you will hear today, that you will come to a greater appreciation of the problems associated with obtaining front-end money to finance the many needed services which are necessary in an impacted community. I will not address these particular problems because there are others at the local level who are in a much better position to articulate those concerns than I. I would, however, prefer to take a few moments and address the concept of the prepayment of taxes and how it related to State government in Wyoming.

As you probably are aware, Senator Wallop, we have tried to institute the concept of the prepayment of taxes at the State level for a number of years in Wyoming. As chairman of the house revenue

committee, I have asked the legislative service office on several occasions to research the feasibility of the prepayment of taxes concept. In addition, Mr. Ed Whitehead, a noted Cheyenne attorney, was hired by a private group in 1977 to attempt to develop a bill to authorize the same concept. Both the legislative service office and Mr. Whitehead have reluctantly concluded that the prepayment of taxes would not be permissible under the Wyoming constitution.

It is the consensus of opinion of most groups that two problems exist under the interpretation of the Wyoming constitution by our courts. The first problem that is foreseen is that the rule of law in Wyoming is that one governing body cannot diminish the property tax revenues of a succeeding governing body. The governing body in office would receive the prepaid tax which would diminish the amount of property taxes which the next governing body would be entitled to receive and this would be contrary to constitutional precepts of the Wyoming constitution. The Wyoming Supreme Court has recently affirmed this rule when the legislature passed a severance tax to retire a bond issue for capital construction projects in the State. The Supreme Court ruled that that was unconstitutional because we were, in effect, binding the taxing authority of future legislatures.

The second problem that I foresee is that the tax base for the prepayment of property taxes is normally located in the county and not within the city limits. Despite the fact that much of the impact is located in the city, the prepayment of property taxes would affect only the county and school districts. The city, then, cannot forgive or repay future property taxes since it has access to none. Some have said that a city is a part of the county, thus enabling the county to give some of the prepaid taxes to the city.

There is another rule of Wyoming law which states that one governmental entity cannot give its tax revenues to another governmental entity unless its inhabitants will receive a direct benefit and, also if the public purpose funded is one historically performed by the contributing governmental entity. Counties have not historically engaged in water, sewer, streets or other city financing, and, therefore, it has been the court's interpretation of the constitution that this is unconstitutional.

Now, Senators, I want you to know that I point these problems out not in an attempt to discredit the proposed legislation that we are here considering, but, rather, to show the difficulty that we, as a State, have encountered in dealing with the problems. I express my wholehearted support for this Federal piece of legislation because of our frustrations at the State level. It is my understanding that the Montana Legislature has tried to enact similar legislation at the State level but has found that the same problems that we are dealing with has hindered any implementation of their law.

Certainly, the need for front-end money is obvious. The mineral industry in Uinta County has been extremely responsible in their attempts to mitigate the impact which has occurred here. It does seem fair to me to allow them the opportunity to be credited on their tax returns rather than be expected to continue to fund the many needs of the area by gifts or grants.

Again, I express my support for the proposed bill and again I would express my thanks to you for coming. I'm sure you might have some questions for me. Thank you.

Senator WALLOP. Ron, thank you. Do you have any, Bill?

Senator ARMSTRONG. Mr. Chairman, the answer which is probably known by everybody in the room and certainly by you, but I can't help but wonder is there a practical option to amend the State constitution in order to permit this prepayment proposal to work?

Mr. MICHELI. The problem, Senator, as I see it, is that that would be very difficult. It's not specific in the constitution that this is unconstitutional. In other words, you couldn't go to our constitution and find the specific section that it says is unconstitutional. The problem has been that the different sections of the constitution have been interpreted by our courts. Frankly, the interpretation of being historically supported is only found in the section that deals with the 8-mill levy of the city or the 12-mill levy of the county. There is no specific prohibition against that. So I would think that that would be difficult.

Frankly, though, I think there is some alternatives that could be worked out and I don't want to be a doomsdayer on this legislation. I think there are some alternatives that we haven't looked at. As a legislator, you're aware that mine development goes along with property taxes. I don't think the legislator who looked into the possibility of, maybe, some prepayments of severance tax or forgives taxes on the State level. I don't think we have looked into the forgiveness of sales taxes. Also, that may be more difficult since Chevron and Amoco wouldn't be paying a tremendous amount of sales taxes, but I think there is some options available that I would certainly be able to work with you and develop statewide.

Senator ARMSTRONG. Well, I don't in any sense suggest you amend your constitution, but since you raised the issue, I was curious and, of course, you would not want to do that lightly or if there were other options available. But I can see that would be a great problem and one which we don't experience in Colorado. The prepayment of taxes is a feature of our operation and it has been a problem.

Mr. MICHELI. I'm aware of that and it's worked quite well for Colorado.

Senator ARMSTRONG. I appreciate your insights.

Senator WALLOP. Ron, it seems if there is no clearcut constitutional provision, it might seem the best way to confront it by passing such a law and having a suit initiated so you could see what the constitutional ruling was and thereafter design a proposed amendment, if that was the will of the legislature, to deal with it. I'm curious about the one interpretation that the rule of Wyoming is one governing body cannot diminish the governing body of a succeeding one. It seems if you interpret that use of vernacular as a constructionist, that means the only thing you could do in Wyoming is raise taxes. You couldn't come up to a time of prosperity where we'd lower our taxes because wouldn't you, in effect, be doing that?

Mr. MICHELI. Senator, I agree about that. Maybe testing the constitutionality of the law would be interesting. We thought we did

that with the severance tax—the *Witzenburger* case. We lost 3 to 2. So I guess in a sense we did test it.

Senator WALLOP. Well, if that's the case, then maybe there would be some clear concept that could be proposed to people of this State.

The other thing with regard to this, of course, one of the options—not options, but one of the other things in this bill is, of course, the gifting provisions which does permit as well the immediate writeoff of taxes, which takes care of the second problem to an extent that you have on the tax base issue, your No. 2 problem, as you presented it, with the legislation as it is designed. But what about joint powers? Is that not possible in terms of some of the things that would be coming under this? For example, I think you already have in Evanston constructed a city/county building, have you not?

Mr. MICHELI. Not a city/county building, but joint powers is definitely a possibility and it has been successful, as you're aware, in Wyoming, and I think that's an obvious opportunity that we could look into.

Again, we have to satisfy the requirement that it's beneficial to all the entities in the joint powers.

Senator WALLOP. It's interesting and I don't suppose the residents of cities are also residents of cities? I don't think they have got around to separating them entirely and it's a problem, as you point out, and perhaps you or any of your colleagues in the legislature might find some means by which this could accommodate the Wyoming constitution, though it sounds doubtful.

Mr. MICHELI. Well, Senator, as I said, I don't want to be terribly negative about it. I submit we can work it out. I feel optimistic that there are alternatives. But certainly I hope if nothing else the opportunity for companies to use the Federal income returns, if you can get these sort of concepts through the Congress, I certainly think that would be worthwhile, if we can't work it out at the State level, which I believe we can.

Senator WALLOP. If we had it in place, the incentive to try to work it out might be more median than otherwise.

Mr. MICHELI. That's correct.

[The prepared statement of Representative Ron Micheli, Wyoming State Legislature, follows:]

Wyoming State Legislature

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REPRESENTATIVE RON MICHELI
Uinta County
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Ft. Bridger, Wyoming 82933
Committees:
Revenue, Chairman
Labor, Health and Social Services

I appreciate this opportunity to be able to comment on the proposed legislation to allow pre-payment of funds to impacted communities. I especially appreciate the effort that you have made to hold this public hearing in the heart of the Overthrust Belt. I am sure that from the testimony that you will hear today, that you will come to a greater appreciation of the problems associated with obtaining front-end money to finance the many needed services which are necessary in an impacted community. I will not address these particular problems because there are others at the local level who are in a much better position to articulate those concerns than I. I would, however, prefer to take a few moments and address the concept of the pre-payment of taxes and how it relates to state government in Wyoming.

We have tried to institute the concept of the pre-payment of taxes at the state level for a number of years in Wyoming. As Chairman of the House Revenue Committee, I have asked the Legislative Service Office on several occasions to research the feasibility of the pre-payment of taxes concept. In addition, Mr. Ed Whitehead, a noted Cheyenne attorney was hired by a private group in 1977 to attempt to develop a bill to authorize the same concept. Both the Legislative Service Office and Mr. Whitehead have reluctantly concluded that the pre-payment of taxes would not be permissible under the Wyoming Constitution.

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It is the consensus of opinion that two problems exist under the interpretation of the Wyoming Constitution by our Courts:

1) The rule of law in Wyoming is that one governing body can not diminish property tax revenues of a succeeding governing body. The governing body in office would receive the pre-paid tax which would diminish the amount of property taxes which the next governing body would be entitled to receive and this would be contrary to constitutional precepts. The Wyoming Supreme Court has recently re-affirmed this rule when the legislature passed a severance tax to retire a bond issue for capital construction projects in the state. They ruled that law unconstitutional because we were in effect, binding the taxing authority of future legislatures.

2) The tax base for the pre-payment of property taxes is normally located in the county and not within the city limits. Despite the fact that much of the impact is located in the city, the pre-payment of property taxes would affect only the county and school districts. The city, then, can not forgive or repay future property taxes since it has access to none. Some have said that a city is a part of the county, thus enabling the county to give some of the pre-paid taxes to the city. There is another rule of Wyoming law which states that one governmental entity can not give its tax revenues to another governmental entity unless its inhabitants will receive a direct benefit and if the public purpose funded is one historically performed by the contributing governmental entity. Counties have not historically

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Labor, Health and Social Service

engaged in water, sewer, streets or other city financing.

I point these problems out, not in attempt to discredit the proposed legislation that we are here considering, but rather, to show the difficulty that we as a state have encountered in dealing with the problem. I express my wholehearted support for this federal legislation because of our frustrations at the state level. It is my understanding the Montana Legislature has tried to enact similiar legislation but has found that the same problems that we are dealing with has hindered any implimentation of their law.

Certainly the need for front-end money is obvious. The mineral industry in Uinta County has been extremely responsible in their attempts to mitigate the impact which has occured here. It does seem fair to allow them the opportunity to be credited on their tax returns rather than be expected to continue to fund the many needs of the area by gifts or grants.

Again, may I express my support for the proposed bill and my appreciation for the time spent here in Evanston in this public hearing.

Senator WALLOP. Ron, thank you very much.

Next is my friend, Mayor Dennis Ottley, here on behalf of the Wyoming Association of Municipalities, and I suppose Evanston as well.

STATEMENT OF HON. DENNIS OTTLEY, MAYOR OF EVANSTON, WYO.

Mr. OTTLEY. Thank you, Senator Wallop and Senator Armstrong.

I am Dennis Ottley, mayor of Evanston. I am also performing a dual role here today as member of the board of directors of the Wyoming Association of Municipalities. My comments today will be on behalf of the association.

First, I would like to thank you, Senator Wallop, for taking the initiative with this proposal. We appreciate your concern for the energy-impacted communities and your willingness to come here and hold your committee meeting in the community where the impact is occurring.

The purpose of my testimony is to sketch in the general picture of impact and the problems we have in responding. Communities in this State which are directly affected by mineral and energy expansion experience the following: First, it happens quite fast compared to the time it takes to plan for and complete such municipal facilities as sewers, water, streets. Second, it happens quite fast compared to the flow of tax revenues and other income required to pay for the facilities. Third, data for planning is often slow in coming and must be reconciled with information from other sources, a process which takes time. And, four, you cannot place the burden on existing residents to pick up a substantial share of the increased costs. It's too expensive for them. There is a compelling national and State, as well as private, interest in helping to mitigate this cost impact.

Approximately 2 years ago, all the cities and towns were having an extremely difficult time responding to industrial impact. We were faced then with a projected $385 million backlog in capital facility needs, most of which were directly or indirectly resulting from impact. We were also very short of money to pay the day-to-day costs of our communities. We anticipated that $80 million over the succeeding 4 years would come from various Federal assistance programs. We asked the Governor and State legislature to help. As they have done in the past, they made a strongly positive and helpful response. They did their part for the people of this State.

What is lacking is continuity of the Federal response. Our anticipated $80 million a year has either been cut from the Federal budget or is in such a state of confusion that we can't count on it. In this regard, the association welcomes your initiative to explore other avenues of Federal assistance which can provide capital funds early in the impact process. I believe this would certainly assist us with the problem of the desperate need to begin constructing facilities but not having the funds to enter into a contract.

Finally, if your efforts are successful, we certainly have our work cut out for cities and towns. To take advantage of your proposal on prepayment of taxes will require the State implementing legislation. Cities, towns, and counties will also have to work cooperative-

ly since little of the prepaid property taxes would come to the municipalities. We have the people from impact, but the assessed valuation is in the county. Hopefully, the industries will explore your option of direct purchases or projects for municipalities which will help overcome the problems of tax distribution from the county.

We look forward to working on these challenges as you pursue yours. Again, we appreciate the opportunity to testify before your subcommittee.

With your permission, I would like to hand you comments made by Steve Synder, our city administrator, reviewing the situation from our city's perspective. He will not be here this morning and he apologizes for that.

Senator WALLOP. By all means, the statment will be in and I do understand.

Mr. OTTLEY. And that is my testimony.

Senator WALLOP. Bill, do you have any questions?

Senator ARMSTRONG. Mr. Mayor, what kind of growth have you had in Evanston in the last 5 or 10 years?

Mr. OTTLEY. Since we have had probably, since 1970—we probably increased from right around 4,500 up to as much as close to 12,000 at this point. In 1980, we had a growth of 624. Of course, according to the census—and we weren't sure that was right, but we accepted it. Since that time, I think we have more than doubled, or at least doubled.

Senator ARMSTRONG. What do you think the population of this community will be, say, 10 years hence?

Mr. OTTLEY. Well, there have been several studies made in the area by the industrial association, LU-AG and also private industries that it's varying anywhere from—during this decade—anywhere from 18,000 to 50,000. So it's everybody's guess. But I'm looking if we get around 18,000 during this decade, we are looking at quite an increase.

Senator ARMSTRONG. Sounds to me like you have your work cut out for you.

Mr. OTTLEY. See, we are annexing more and more property all the time, which is causing additional costs.

Senator ARMSTRONG. And the principal way in which the minicipalities are financed is through the mill levy?

Mr. OTTLEY. No. The principal way of the municipal budget, the revenues are the city sales' taxes and the severance taxes, are our two larger revenues.

Senator ARMSTRONG. I see.

Mr. OTTLEY. Now, we have a very small source of revenue coming from property tax. I think our budget this past year was right around $8½ million. Our general budget, I think $100,000 of that came from the county property taxes, or State property taxes.

Senator ARMSTRONG. So that's really a very minor problem?

Mr. OTTLEY. That's our concern with this, is this going to take some cooperation with county and cities and legislation of the State to make us work.

Senator ARMSTRONG. Thank you.

Senator WALLOP. Dennis, with you and Dick Wagner and Jerry Olsen and the county commission, John Fanos and Boyd Eddins, you will be exposed to folks who have really been put through the

paces as to how to deal with things in a hurry. Most of the growth that Mayor Ottley has talked about was not in the decade but the half decade, mostly since 1976. That's been the really explosive part.

Mr. OTTLEY. Right. The city in the past 3 years has annexed over 5,000 acres which is being developed, or 75 percent of it is being developed and this has caused quite a problem.

Senator ARMSTRONG. It's just really helpful to have that kind of testimony because the people that we present this legislation to come from areas that, maybe, will grow 10 percent. For the most part, most of the Senators come from areas that are mature, that, in some cases, are actually declining in population and for them to think about the percentage growth that you have had here in this community and in other parts of Wyoming, it just blows their minds. So it really is good to have as a part of the record of this hearing that kind of testimony, gives us some ammunition that we can go back and put before them.

Senator WALLOP. One of the things that I think has been, maybe, lost on folks, but hasn't been lost on Bill in contriving this legislation and me, as being cosponsor of it, is just what you said about the unpredictability of Federal funding through the appropriations process. That rises and falls as other bits and pieces of national prosperity fall into place and the makeup of the national Congress because it depends a little bit on who is there, what the priorities are.

Mr. OTTLEY. Admittedly, there is nothing predictable about the voluntary prepayment of taxes which is the concept here, but at least it's something that you do with people who are on the ground and can make decisions. That's what we are hoping, is that you would have a little more reliable basis upon which you could plan, as members of local governments, whatever structure you happen to find yourself in.

I appreciate it very much for you taking the time to come down here this morning.

[The prepared statement of Mayor Dennis Ottley follows:]

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TESTIMONY OF MAYOR DENNIS OTTLEY
BEFORE THE HEARING OF THE FINANCE
SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

Thank you, Mr. Chairman.

I'm Dennis Ottley, Mayor of Evanston. I am also performing a dual role here today as member of the Board of Directors of the Wyoming Association of Municipalities. My comments today will be on behalf of the Association.

First, I would like to thank you, Senator Wallop, for taking the initiative with this proposal. We appreciate your concern for the energy impacted communities and your willingness to come here and hold your committee meeting in the community where the impact is occurring.

The purpose of my testimony is to sketch in the general picture of impact and the problems we have in responding.

Communities in this State which are directly affected by mineral and energy expansion experience the following:

1. It happens quite fast compared to the time it takes to plan for and complete such municipal facilities as sewers, water, streets.

2. It happens quite fast compared to the flow of tax revenues and other income required to pay for the facilities.
3. Data for planning is often slow in coming and must be reconciled with information from other sources--a process which takes time.
4. You cannot place the burden on existing residents to pick up a substantial share of the increased costs--it's too expensive for them. There is a compelling national and state, as well as private, interest in helping to mitigate this cost impact.

Approximately two years ago all the cities and towns were having an extremely difficult time responding to industrial impact. We were faced then with a projected $385,000,000 backlog in capital facility needs, most of which were directly or indirectly resulting from impact. We were also very short of money to pay the day-to-day costs of our communities.

We anticipated that $80 million over the succeeding four years would come from various federal assistance programs. We asked the Governor and State Legislature to help. As they have in the past, they made a strongly positive and helpful response. They did their part for the people of this state.

What is lacking is continuity of the federal response. Our anticipated $80 million a year has either been cut from the federal budget or is in such a state of confusion that we can't count on it. In this regard, the Association welcomes your initiative to explore other avenues of federal assistance which can provide capital funds early in the impact process. I believe this would certainly assist us with the problem of the desperate need to begin constructing facilities but not having the funds to enter into a contract.

Finally, if your efforts are successful, we certainly have our work cut out for cities and towns. To take advantage of your proposal on prepayment of taxes will require the State implementing legislation. Cities, towns and counties will also have to work cooperatively since little of the prepaid property taxes would come to the municipalities. We have the people from impact but the assessed valuation is in the county. Hopefully, the industries will explore your option of direct purchases or projects for municipalities which will help overcome the problems of tax distribution from the county.

We look forward to working on these challenges as you pursue yours. Again, we appreciate the opportunity to testify before your subcommittee. With your permission, I would like to ~~have~~ HEAR YOU COMMENTS MADE BY Mr. Steve Snyder, our City Administrator, review the situation from our city's perspective.

Senator WALLOP. Thank you.

Senator ARMSTRONG. Thank you, Mayor.

Senator WALLOP. Next is Commissioner John Fanos, who is also president of the Wyoming County Commissioners Association.

Good morning, John.

STATEMENT OF JOHN FANOS, UINTA COUNTY COMMISSIONER

Mr. FANOS. My name is John Fanos. I am a Uinta County Commissioner and president of the Wyoming County Commissioners Association. I am also chairman of the Uinta County Impact Coordinating Committee.

I would like to thank you, Senator Wallop and Senator Armstrong, for the opportunity to testify here today. I commend you for taking an important step to help communities facing the very severe problems which often accompany rapid industrial energy development. I am talking today from the position of a local official who must manage a county in the midst of an energy boom.

I must say that I support the concept of S. 1919. I believe it is an important way to encourage industry to assist their host communities. Yet, I am concerned about some issues and I don't see S. 1919 as the overall solution to the impact financing problem, especially in Wyoming where we have the Industrial Siting Act. This may be more meaningful in other States where they do not have a siting act.

I would like to elaborate a little bit. I believe that the financing impacts due to energy or mineral development involved three issues. The first is how to make use of the future tax revenues now. The second is, who pays for the expanded public services and facilities which are required by this development. The third is that this piece of legislation is not intended to preempt Wyoming's Industrial Siting Act in the future, which you, Senator Wallop, supported while you were a member of the Wyoming State Legislature.

Using future State tax dollars on the front end will help and particularly in several years from now when we will have an adequate tax base. I believe that S. 1919 addresses this issue very well, even though it has limited application in a State like Wyoming where many believe our constitution will not allow tax prepayments. But I caution the prepayment of taxes of ad valorem taxes can place counties in a tough spot in future budgeting years. Therefore, tax prepayments should be used only as a tool to compliment other funding mechanisms such as State grants or industry contributions, and that the prepayment of taxes in not intended to replace front-end grants from industry, but only as an additional tool to assist local government entities.

In my view, the heart of the issue is who pays for the expanded government services which are demanded as a result of rapid population growth. I believe the burden must be spread among all of those who benefit from the growth and this includes the cities and counties and industry, the State, and the people of the United States. In Uinta County, with the cooperation of Chevron and Amoco and Champlin and other oil and gas companies, we have developed a system which taps all these sources. It is a system which achieves mitigation goals without placing an unfair burden on any

single participant. Our new capital facilities financing program is an excellent example. This effort, which is the largest community facilities building program undertaken for an existing energy impacted boom county will allow us to begin work this summer on a library, sewer treatment plant, recreation center, public workshop, police station, county courthouse, and a human services center. The funding package has the county paying 11 percent, the city of Evanston paying 5 percent, the Overthrust Industrial Association paying 15 percent, developers and new residents paying 16 percent, the Federal Government 14 percent, and the State of Wyoming 9 percent. The remaining 30 percent is financed through a series of loans from Wyoming State Farm Loan Board. These loans will be repaid by future severance tax revenues. We believe this package is innovative and achieves the best in shared responsibility for impact mitigation.

It also may raise a question of should we pledge future severance tax revenues and pledge future tax credit at the same time? I feel we should exercise caution in this area. And it also raises another question. Under our constitution, that cannot be created without a vote of the people. Therefore, any prepayment would require approval of the electorate. The allowable debt margin is limited to a given percentage of the existing assessed valuation of the unit of government. Therefore, prepayment of taxes could not raise any more revenue than is currently available to the unit of government through its existing bonding capacity.

You will note that in this package the Federal Government will be paying 14 percent. Uinta County was fortunate enough to secure these funds just before the Federal programs were eliminated by President Reagan. This was on the EPA funds and I believe the people from the United States who will benefit from the Uinta County energy resources should share in the responsibility for mitigating the impact.

S. 1919 is an important first step in continuing and making more efficient the Federal involvement in impact mitigation. However, let me emphasize that I view it as only a first step. Ultimately, the Federal role—and by this I mean the involvement of the people who will use this energy resource—must be adequate to bear its fair share of the responsibility. The method for Federal involvement must be efficient, avoiding the wasteful bureaucratic programs of the past. These tax credits would allow a fair participation by all the consumers of energy products, while providing this participation without any unnecessary redtape. Under such a system, 100 percent of the benefits would go to the people for whom they were intended and I can't imagine a much more efficient system.

On conclusion, I would like to repeat my support for the concept of S. 1919. But I hope, Senator, you will view it only as a supplement to the continuing front-end grants that industry agrees is their responsibility and that prepayments of taxes alone is not the answer to impact problems.

Senator WALLOP. Rest assured that the statement which I didn't deliver, but had prepared for this morning, does state clearly that it is not viewed as a complete cure, but as a tool in a ray of tools, and in a ray of potential Federal responses, but dealing with poten-

tial Federal responses. Right now, you have to recognize the budget circumstances in which we are and will be in for some time to come. I just don't see in any near time, regardless of what anybody might do. If we had stated the whole tax burden that was removed before you still are in a country that simply has been living beyond its means so long that we are not—we cannot do all of the things that we have committed ourselves to do. This was an attempt to, as you say, get a little more efficient and try to step around some of the definitions and other requirements that have gone with these attempts to address impact problems in the past. Also, there is, frankly, a political grab in all of this and Bill touched on it a little earlier and in a way I did, but when I was on the Environmental Public Works Committee and Senator Muskey was chairman of it and we were talking about sewer grants and other things, we ran into that some same problem. Gosh, any city in America would be delighted to have any. I said, "Well, maybe any city in Maine or any other States, but not any city in America. These cities and communities in my State are having growth thrust upon them and rates that have nothing to do with their ability to control it or even their specific desire."

But I guess what I'm pointing out is the political attitude that goes with that, tells you that you ought not to be having Federal grants for expanded sewer systems to make life easier for developers, which displays a frank ignorance, but an understandable one on the rest of the country. This one, I believe, weak development in this moment and time, sufficient understanding to get through and it's only a small lever in a whole series of levers that one day we hope to be in place. I think you can contribute upon the obligations of the State and other entities that are involved domestically that are benefiting from these things.

Mr. FANOS. We have tried to help owners.

Senator WALLOP. You have done a darn good job. I think that's a creative mix.

Mr. FANOS. You have mentioned that people said they would be tickled pink to have these growth problems. A few years ago when we were talking about industrial revenue bonds, which is the intent to have industries move into the area, we would have been tickled pink to move in and you bet, we would have issued any type of revenue bond that they approached us with. However, now it's upon us and we have all of these problems. We charge a fee for each industrial revenue bond to help take care of our revenue bonds and it's a reverse of what we would have done 6, 7 years ago.

Senator WALLOP. Eight years ago you were enthused or dying to have this business and now you're not.

Mr. FANOS. It depends whether you're batting or pitching; yes.

Senator ARMSTRONG. Mr. Chairman, I compliment the commissioner for a very thoughtful and well-balanced statement and I just want to relate to him a discussion we had at the hearing yesterday with the Union Oil Co., which has put up $500,000 not in prepaid taxes, but as you pointed out, a front-end payment of another kind. It was put up—they put up $500,000 for fire equipment for the town of Parashoot, Colo., and yet the tax status of that $500,000 is in doubt. There is a question whether or not, in fact, they will be able to deduct that from their Federal income tax. So the other

part of this bill, as Senator Wallop has pointed out, goes to clarifying the tax status of the front-end payments and I certainly share your feeling and Senator Wallop's that prepaid taxes is not the whole answer and a lot of it will have to continue to be negotiations between local communities and the energy companies. But we think we can assist the local communities in getting cooperative attitudes, if the companies know that when they get all done that they will be able to take it off of their taxes. It's terrible to go back to the shareholders and say, "We put up this with no return benefits."

Mr. FANOS. We fully support that.

Senator ARMSTRONG. Yes; I know you do. I just wanted to relate that incident. I don't know what the dollar values are, but we heard yesterday of one company in one county in Colorado that had committed $60,000,000 through 1983, in that kind of mitigation. So we are talking about gigantic sums.

Mr. FANOS. $60,000,000?

Senator ARMSTRONG. $60,000,000.

Rod, is that not what they testified to in one county, $60,000,000 expended or committed by one company?

Mr. DEARMENT. Yes.

Senator ARMSTRONG. So we are talking about gigantic potential dollars over a time and they just—in my judgment, they are not going to be able to do that if they can't be sure whether it comes off of their taxes.

Mr. FANOS. I appreciate that.

Senator WALLOP. I just want to reassure you, too. I had a couple of notes from your remarks. This is not intended to preempt the Wyoming siting law, but to be a compliment to it to the extent that it's workable in the State. It can be used by them as a mitigating tool, to force together things.

Second, with regard to the prepayment of taxes, it is not contemplated that either a city has to—under the terms of the bill, a city or political subdivision of any kind has to accept it if offered, or a company has to pay it, if requested. So that it would be a matter of negotiations between the entities and then, probably, many of those future shock problems, which you rightfully point out, would have to be considered and have an opportunity to be considered before making some commitment.

[The prepared statement of John Fanos follows:]

PREPARED STATEMENT OF JOHN FANOS, UINTA COUNTY COMMISSIONER

My name is John Fanos. I am a Uinta County commissioner and president of the Wyoming County Commissioners Association. I am also chairman of the Uinta County Impact Coordinating Committee.

Thank you Senator Wallop for the opportunity to testify here today. I commend you, Senator, for taking an important step to help communities facing the very severe problems which often accompany rapid industrial energy development. I'm talking today from the position of a local official who must manage a county in the midst of an energy boom.

Let me say up front that I support the concept of SB 1919. I believe it is an important way to encourage industry to assist their host communities.

Yet I am concerned about some issues. I do not see SB 1919 as the overall solution to the impact financing problem, especially in Wyoming where we have the Industrial Siting Act. This may be more meaningful in other States where they do not have a siting act.

Let me elaborate. I believe that financing impacts due to energy or mineral development involves 3 issues. The first is how to make use of future tax revenues now.

The second is who pays for the expanded public services and facilities which are required by this development. The third is that this piece of legislation is not intended to pre-empt Wyoming's Industrial Siting Act in the future, which you Senator Wallop supported while a member of the Wyoming State Legislature.

Using future tax dollars on the front end will help, particularly in a county like ours where several years from now we will have an adequate tax base. I believe that SB 1919 addresses this issue very well, even though it has limited application in a State like Wyoming, where many believe our constitution will not allow tax prepayments. But I caution that prepayments of ad valorem taxes can place counties in a tough spot in future budgeting years. Therefore, tax prepayments should be used only as a tool to complement other funding mechanisms such as State grants or industry contributions, and that prepayment of taxes is not intended to replace front end grants from industry. But only as an additional tool to assist local government entities.

In my view the heart of the issue is who pays for the expanded government services which are demanded as a result of rapid population growth. I believe the burden must be spread among all those who benefit from the growth. This includes cities, counties, industry, the State and the people of the United States. In Uinta County with the cooperation of Chevron, Amoco, Champlin, and other oil and gas companies, we have developed a system which taps all these sources. It is a system which achieves mitigation goals without placing an unfair burden on any single participant. Our new capital facilities financing program is an excellent example.

This effort, which is the largest community facilities building program undertaken for an existing energy impacted boom county will allow us to begin work this summer on a library, sewer treatment plant, recreation center, public works shop, police station, county courthouse and human services center. The funding package has the county paying 11 percent, the City of Evanston paying 5 percent, the Overthrust Industrial Association 15 percent, developers and new residents paying 16 percent, the Federal Government 14 percent and the State of Wyoming 9 percent. The remaining 30 percent is financed through a series of loans from Wyoming State Farm Loan Board. These loans will be repaid by future severance tax revenues.

We believe the package is innovative and achieves the best in shared responsibility for impact mitigation. It also may raise the question should we pledge future severance tax revenues and pledge future tax credit at the same time? I feel we should exercise caution here. This also raises another question. Under our constitution, debt cannot be created without a vote of the people. Therefore any prepayment would require approval of the electorate. The allowable debt margin is limited to a given percentage of the existing assessed valuation of the unit of government. Therefore, prepayment of taxes could not raise any more revenue than is currently availble to the unit of government through its existing bonding capacity.

You will note that in this package, the Federal Government will be paying 14 percent. Uinta County was fortunate enough to secure these funds just before the Federal programs were eliminated by the Reagan administration. I believe that the people of the United States who will benefit from the Uinta County energy resource should share in the responsibility for mitigating the impacts.

SB 1919 is an important first step in continuing and making more efficient the Federal involvement in impact mitigation. However, let me emphasize that I view it as only a first step. Ultimately, the Federal role, and by this I mean the involvement of the people who'll use this energy resource, mut be adequate to bear its fair share of the responsibility. And the method for Federal involvement must be efficient, avoiding the wasteful bureaucratic programs of the past. These tax credits would allow a fair participation by all the consumers of energy products, while providing this participation without any unnecessary redtape. Under such a system, 100 percent of the benefits would go to the people for whom they were intended. I can't imagine a more efficient system.

In conclusion, let me repeat my support for the concept of SB 1919. But I hope, Senator, you will view it only as a supplement to the continuing front end grants that industry agrees is their responsibility and that prepayments of taxes alone is not the answer to impact problems.

Thank you.

Mr. FANOS. All right. Thank you, Senator.

Senator WALLOP. Thank you very much.

Next is Commissioner Boyd Eddins, who is chairman of the Lincoln County Commissioners.

Good morning, Boyd.

STATEMENT OF BOYD L. EDDINS, CHAIRMAN, BOARD OF COUNTY COMMISSIONERS, LINCOLN COUNTY, WYO.

Mr. EDDINS. Good morning, Senator Wallop, Senator Armstrong, fellow public and elected officials and it's a pleasure to be here this morning.

I would like to address some concerns I have in speaking for the Lincoln County Board of Commissioners and the Lincoln/Uinta Association of Government, which I am chairman of both boards. In spirit and essence and concept, we support the Energy Self-Help Act of 1981. We would support anything that would encourage early assistance in impact areas, but we would like to clarify the point that we are not in favor of prepayment of taxes, which diminish revenues for future elected officials, boards, and people that have to run communities. There is a difference between raising or lowering taxes by elected officials on boards of county commissioners and authorizing prepayment of taxes which would cut future revenues that should apply after the board's term of office has expired. So as a board, we are not in favor of prepayment of ad valorem taxes on the county level.

Now, I would like to—there are many issues I could talk about. I decided to take one issue in Lincoln County to give the idea of why we support the concept of encouraging front-end money and I could take social services. I could take schools. So because I take a specific example, I am not making it the most important example in Lincoln County, but it's one I can address in a few minutes and that's the example of roads.

You're probably very aware that the county road system in every county in the State of Wyoming has been a stepchild of funding. Rural people have been asked to build hospitals, schools, highways, universities, and they have been taxed and taxed and taxed, but it's very difficult to get funds back to those rural areas to upgrade roads. Lincoln County has approximately 350 miles of legally dedicated roads and about 150 miles of gray shaded roads that we are responsible for. In impact, these are roads that are minimal. There are only 80 miles of surfaced roads in Lincoln County. If you live in a rural area and have eaten dust all of your life, you can't keep decent furniture, you can't keep a lawn looking right, you wash a car and 30 minutes later it's dirty. Along comes enough money to pave the road. That's probably one of the best gifts the politician can give to the voters of their county.

Then we have impact that we have never thought of before. Loads that our bridges can't carry. Loads that our roads weren't designed to take care of and in a matter of 1 day, a road that's a treasured gift becomes rubble. A specific example in Lincoln County, we try to enter into specific easement agreements with oil companies and permit them on a particular road. We review the road before the rig or the equipment moves in. We allow them to bring in an unbiased individual to look at it, someone who knows about engineering expertise and knows what the road looks like and what it will take. We sign an agreement that the road will be left in the condition they find it in. We put speed limits on it and, I might say, they are excellent to work with. The oil companies cooperate. I'm pleased to state that.

But there is confusion. A rig can move out and the first 9 or 10 loads go up the wrong road and you ruin a bridge, you break up one of the better oil roads in the county because of the spring of the year, or the time of the season, it just won't carry the loads. So then we enter into negotiations of damages. Any bill that would help take the burden away from industry to pay for the damage, give them a break on Federal taxes, whatever, and yet encourage that cooperation would be a tremendous asset to Lincoln County.

So I would just state that in spirit, we accept the bill. We are not in favor of spending future tax dollars for other governing bodies to come up with solutions and we do appreciate the support we have in Lincoln County from industry. We have received sizable payments for damaged roads and people are willing to sign the agreements and work with us, if we do it in a rational manner.

Are there any questions of my statement?

Senator WALLOP. Bill?

Senator ARMSTRONG. Well, you know, I consider myself reasonably knowledgeable of these problems, but I was not aware that in 1 day a road could be damaged to the extent that you have mentioned and I'm very grateful to you for that.

Mr. EDDINS. I can use an example of the Smoot/Fairview road which is probably one of the newer roads in the north end of Lincoln County. It was not permitted to go out—it's the spring of the year and you get underground moisture and its starts to thaw from the winter. Nine semis went out and literally cracked almost every squar inch of the road of the south side that the traffic went up.

Senator ARMSTRONG. What was the solution of that?

Mr. EDDINS. The company has mailed us a check for $15,000 to help with repairs.

Another company that we didn't want to go in that way, but it saves money to go in that way, they are going to pay an additional $30,000. The county is going to put in $15,000 and for $60,000, and we will reseal the road when the weather permits.

Senator ARMSTRONG. How long a stretch are we talking about?

Mr. EDDINS. We are talking about 4½ miles of road.

Senator ARMSTRONG. So in that case, we are talking about $15,000 a mile to repair it?

Mr. EDDINS. That's correct. That's just putting a chip in and spray process on it. We could pursue many, many interesting subjects just in the line of road and bridges, why a county like Lincoln County cannot support the impact we have had and maintain roads and make them satisfactory.

Senator ARMSTRONG. Do you have any idea what the cost of constructing from the start a mile of road in Lincoln County would be, of an oil road?

Mr. EDDINS. A road that would hold reasonable sized loads, the kind of loads that we are talking about to support the oilfield industry, to bring a road to good grade and carry the loads that you need, is approximately $80,000 to $90,000 a mile.

Senator ARMSTRONG. You're not talking about acquiring the land?

Mr. EDDINS. We purchase no property in Lincoln County. Fortunately, we have all of our roads, basically, legally dedicated. We only ask for a trespass easement. That's not acquiring. I'm talking

about construction, to build it to grade; $90,000 a mile. To blacktop a road of about 22 feet wide or 24 feet wide costs about $90,000 to $95,000 a mile. So you are talking somewhere in the neighborhood of $180,000 to $200,000 a mile. You can come up with figures that are a lot higher than that, but not many that are a lot lower and we have a $550,000 road and bridge budget to maintain all of those roads, to build all the bridges, to remove all of the snow. At our present budget, if we are lucky, we would be able to pave approximately 2 miles of road a year. In a county that has 350 miles of road, how long is it going to take you to get your roads paved if you live on a dusty road? It's a pretty helpless situation. We have a very difficult time getting aid from the State. We think there are State moneys that ought to be channeled off into the farm-to-market road system. We failed 2 years in a row, but we won't fail next year.

Senator WALLOP. Boyd, thank you for your remarks.

I would point out that the bill doesn't require that people neither have to accept or offer the prepayment of taxes. But is there no circumstances under which you might see that a county might indulge itself in that kind of negotiations with the impacting companies, say, for a hospital or something? But in essence, bonding is doing nothing but—well, it doesn't prepay them, but it pledges them, so they are as well removed?

Mr. EDDINS. Yes.

Senator WALLOP. That would be a situation, I guess I'm saying, where there might be some kind of time where you would think an advantage of immediate availability of a service that your county feels as though it ought to offer, would carry through the time in which the prepayment of taxes might be and, again, we wouldn't be talking about 100 percent of taxes, only, you know, a level to accomplish one thing

Mr. EDDINS. Yes; I would agree with that. At the present time, under the given set of circumstances, we are not in favor at this time. If we faced issues like Evanston has faced or Uinta County, there may be reasons for us to change that concept. Under our present financial situation, our position is we are not in favor of prepaid taxes that affect ad valorem taxes within the county unit.

[The prepared statement of Boyd Eddins follows:]

PUBLIC HEARING ON S. 1919, Evanston, Wyoming, April 17, 1982

STATEMENT BY BOYD L. EDDINS, Chairman of the Board of County Commissioners, Lincoln County, Wyoming

I would like to express some concerns I have, speaking as Chairman for both the Lincoln County Commissioners and the Lincoln Uinta Association of Government. In spirit and essence of concept we support the Energy Self-Help Act of 1981. We would support anything that would encourage early-on assistance in impact areas. But we would like to clarify the point that we are not in favor of pre-payment of taxes which would diminish revenues available to future elected officials, boards, or people who have to run communities. There is a difference between raising or lowering taxes by elected officials on boards of county commissioners and authorizing pre-payment of taxes which would cut future revenues that should apply after the board's term of office has expired. So as a board, we are not in favor of a pre-payment of ad valorum taxes on the county level.

There are many issues I could talk about to support the concept of encouraging front-end money. I could take social services, schools, law enforcement, medical care, or others. Because I take a specific example I am not inferring that it is the most important issue in Lincoln County. I have decided to take the county road issue as an example that I can address in a few minutes.

You are probably very aware that the county road system in every county in the State of Wyoming has been a step-child of funding. Rural people have been asked to build hospitals, schools, highways, universities and have been taxed and taxed and taxed! But it is very

(Statement by Boyd L. Eddins, cont.)

difficult to get funds back to the rural areas to upgrade roads. Lincoln County has approximately 350 miles of legally dedicated roads and about 150 miles of roads still in the process of becoming dedicated that we are responsible for. These are roads that are built to minimal standards. There are only 80 miles of surfaced roads in Lincoln County. And if you live in a rural area where you have eaten dust all your life, where you cannot keep furniture decent because of the dust, you cannot keep a lawn or yard looking nice, you wash a car and thirty minutes later it is dirty--and finally after many years there is enough money to pave the road, that is probably one of the best gifts a county commission can give to the voters. And then we have impact on those paved roads that we had never thought of before--loads that our bridges cannot carry, loads that our roads were not designed to take care of. In a matter of one day during the right time of the year, a road that was a treasured gift, becomes rubble.

An example in Lincoln County is our effort to enter into specific road permit agreements with oil companies to permit travel on a particular road. We review the road before the equipment or rig moves in. We allow the company to bring in an unbiased individual to inspect the road, someone who knows by engineering expertise what the road looks like and what it will take. We sign an agreement that the road will be left in the condition that they find it. We put speed limits on it. The oil companies cooperate and are excellent to work with.

But there is confusion. A rig can move out and the first nine or ten loads may go up the wrong road and they ruin a bridge, or they break up one of the better oiled roads in the county because in the spring of the year when the frost is going out of the ground, the road will

(Statement by Boyd L. Eddins cont.)

not carry the load. So then we enter into negotiations for damages. Any bill that would help take the burden away from industry to pay for the damage, to give them a break on federal taxes and yet encourage cooperation, would be a tremendous asset to Lincoln County. We do appreciate the support we have in Lincoln County from industry. We have received payments for damaged roads. The business people are willing to sign agreements with us and work with us if we do it in a rational manner.

So I would state, in spirit we accept the Bill S. 1919. However, we are not in favor of spending future tax dollars that would be available to future governing bodies in order to solve our immediate problems.

Thank you for your consideration of these views.

Senator WALLOP. Thank you very much, I appreciate it.

The next witness is Hon. Richard Waggener, mayor of Green River, Wyo., who has probably had—he's probably the dean of Wyoming impact mayors.

STATEMENT OF HON. RICHARD WAGGENER, MAYOR OF GREEN RIVER, WYO.

Mr. WAGGENER. Thanks, Senator Wallop and Senator Armstrong.

Senator WALLOP. In fact, you came back and testified on the other proposal, which was grant money.

Mr. WAGGENER. We are always looking for new tools.

Green River, Wyo., has been impacted with mineral and energy development. Our city grew from a population of 4,196 to about 13,000, 13,500 people today. In Wyoming, we had one of the highest sustained growth rates of any Wyoming community. Our major difficulty in meeting the impact needs was that we did not have the tools available to cope with the rapid growth.

Since that time, communities such as ours have case histories and other resources available to develop growth management systems. But one of the problems that persists is in developing up-front financial resources. In Wyoming we have a tax structure that helps us cope with the basic operating needs, such as police, fire, and nominal street repairs. After the passage of many legislative actions, communities still face the problem of meeting capital needs. Needs that face a community before the masses of people arrive, before a tax base is available to give us the financial capability to start needed construction.

For example, in Green River in 1978, we forecasted that new development moving in, we would grow by 3,000 people. Our population would grow by 3,000 people in the next 3 years. This would be a 30-percent increase. Basic capital needs at that time of approximately $7,500,000 were identified in a report for major projects. I have attached to the testimony a list of some of those projects. This particular report showed that 80 percent of our capital needs were unfunded. We had used our bonding capacity to fund improvements in sewage, fire, and general obligation improvements. So, in other words, 80 percent of our projects could not be started because we did not have the tax base to bond the projects.

The list slowly expanded. New needs included purchase of police cars, several police cars, a Cat at the landfill, an improved sewage treatment plant, new parks, and recreation facilities. Most of the projects on the 1978 list are now underway some 4 years later. We did survive. We met the needs, but in those years, we certainly faced an awful lot of unhappy citizens, budget difficulties, rapidly rising costs and extremely high employee turnover. Not every one who moved to our area could cope with the climate, sparsely populated areas and the quality of life. The cost was high. The municipal building was bid at a price nearly double that projected in 1978. The cost to our citizens then was an additional $1,000,000 because we couldn't fund a project when it was first needed. The turnover of city employees, 1 year recently went as high as 74 percent. Because of some of these problems, many employers faced the same

turnover problem. It has proved very costly to us and those in industry supplying energy and minerals. A bill authorized to prepay taxes and fees and aid communities would be a welcomed, needed tool to us to use. So its enactment is encouraged.

In this time of attempting to balance the national budget, I guess we, at the local level, do see that cuts and grants and other funding are going to occur and we definitely want to do our part. The proposed bill looks like that would be an opportunity for us to again have a tool available for that.

Just recently, I received a copy of the GAO report entitled "Mitigation of Social Impact of Energy Development." It talked about reduction of Federal funds in fiscal year 1982—$19.8 billion resulting in the elimination of programs. Basically, the funds were recinded in 1981, fiscal year 1981. No funds were appropriated in either fiscal year 1982 or 1983. So, faced with these reductions, communities such as we have in southwestern Wyoming will have to depend on alternative sources. I think it would help if programs such as this come along to help reduce the Federal involvement and to place more responsibility on the State and local level. I think this is to be encouraged, as first indicated in chapter 3 of this report. The similar region out here in the Rockies is hit particularly severe in this area and this should be addressed.

Growth in Green River has been flooded by multi-many resources, of energy and nonenergy development and we certainly wouldn't even have any objections to including some nonenergy sources in this bill. We would welcome the opportunity to have it as a tool. We certainly have no objections and to working with our county in trying to come up with answers of how we continue to solve our needs.

I appreciate having the opportunity to address you gentlemen this morning.

Senator WALLOP. Thank you very much.

Bill, do you have anything?

Senator ARMSTRONG. Mr. Mayor, you have had a lot of experience in dealing with this problem. How have you found the companies to work with? Are they generally cooperative or do you have to drag them kicking and screaming to the bargaining table to work out these problems with you?

Mr. WAGGENER. I think that was a relatively progressive field of activity in that it did seem to start with difficulty. I think right now we have an extremely good working relationship with most of the companies. I think we are able to sit down with them and with other people in the State like the plan siting counsel and work out agreements to problems. Naturally, a lot of industries see where the needs are. We see the needs that we have to address in the local community. We each want to do our part. But I think with the terrible turnover that everybody faced, the communities knew that they had to get into some different areas, involvement, and I think the companies also realized that. So we have had, in the last few years, I think, very good luck in negotiating solutions. But, again, if there are more tools available, it would certainly help us.

Senator ARMSTRONG. You have voiced in your statement—which I appreciate very much—what might be described as the tax lag issue where you see the need for a new capital project, but because

the population, the industrial base that you see coming hasn't come yet. You don't have the property base on which to float a bond issue and I can really relate to that because that's a problem that Colorado communities have faced over and over again and it's a horrendous problem because you hate to wait until the problem arrives to build the hospital and roads and whatever they may be.

Mr. WAGGENER. I think that's one of the engorging things because it's very difficult when the people haven't arrived to convince your local citizens that this has to be brought about. But you can sit down with other governmental industry and industry entities, and if you have a tax base, you can work the problems out.

Senator ARMSTRONG. This is really none of my business, but I'll ask it. Could you take a minute and tell us what it's like to be the mayor of Green River, Wyo., in terms of the time commitments involved? Is that half a day a month? [Laughter.]

Mr. WAGGENER. I don't really know how to answer that. I almost hate to for fear it will get back to my boss. I think in 1981 I spent 67 days outside of the community trying to work out problems in Green River. This was both weekdays and weekend days. I think there is about—it seems like at least 8 days a week that are involved in something having to do with city problems. It's extremely difficult for part-time people, but, nevertheless, I guess we all enjoy it and we want to work with our communities and we keep going.

Senator ARMSTRONG. Thank you.

Senator WALLOP. One thing I would mention here. I believe it's our opinion that this is not exclusively energy impact in here, but relates as well to mineral production which would address one of the things you said you wouldn't have any objections to, should it cross our minds.

In terms of being able to present this to our colleagues, it's obvious that we have to use that as the principal focus because they understand it. But I think your experience with the three Trona mines coming in and there was a large energy development. It would indicate that the problem is the same, whatever causes it. I mean, it doesn't matter what kind of a tail it's wagging. The dog still moves in the same tempo when it happens like that. We recognize that.

Mr. WAGGENER. And I think we recognize your problems, too, in dealing with the Midwest and States like Massachusetts and they don't understand our problems.

[The prepared statement of Mayor Richard Waggener follows:]

STATEMENT BEFORE

THE HONORABLE MALCOLM WALLOP

UNITED STATES SENATOR
ON

SENATE ACT - 1919

hearing on

April 17, 1982

in

Evanston, Wyoming

Presented by: Richard W. Waggener
Mayor
Green River, Wyoming

Senator Wallop. Green River, Wyoming has been impacted with mineral and energy development. Our City grew from a population of 4,196 to 13,000. We had one of the highest sustained growth rates of any Wyoming community. A major difficulty in meeting the impact needs was that we did not have the needed tools available to cope with rapid growth.

Since that time communities, such as ours, have case histories and other resources available to develop growth management systems. One of the problems that persists is in developing up front financial resources. In Wyoming we have a tax structure that helps us cope with basic operating needs such as police, fire, and nominal street repairs. After the passage of many needed legislative actions communities still face the problem of meeting capital needs. Needs that face a community before the masses of people arrive, before a tax base is available to give us the financial capability to start needed construction. For example in Green River in 1978, we forecasted that with new developments moving in we would grow by 3,000 additional people in the next three years, a 30% increase. Basic capital needs of approximately 7.5 million dollars were identified in a report for major projects (see attached list). This particular report showed that 80% of our capital needs were unfunded. We had used our bonding ability to fund imporovements in sewage, fire, and general obligation improvements. In other words 80% of our projects could not be started because we did not have the tax base to bond the projects.

The list then slowly expanded. New needs included purchase of police cars, a cat at the landfill, an improved sewage treatment plant, new parks and recreation facilities. Most of the projects on the 1978 list are now underway some four years later. We survived. We met needs, but in those years, we faced unhappy citizens, budget difficulties, rapidly rising costs, high employee turnover. Not everyone moving to our area could cope with the climate, sparsely populated areas, and the quality of life. The cost was high. The municipal building was bid at a price nearly double that projected in 1978. A cost to our citizens of an additional million dollars. Turnover of City employees went as high as 74% in one year. Many employers faced the turnover problem. This proved to be costly to us and to those industries supplying energy and minerals.

A bill to authorize companies to prepay taxes and fees to aid communities would be a welcome and needed tool for us to use. It's enactment is encouraged. In this time of attempting to balance the national budget we, at the local level will see cuts in grant and other funding. We want to do our part. The proposed bill could give us an opportunity to help ourselves.

Thank you for this opportunity to tell you of the needs that faced and still face our community.

PROJECTED

CAPITAL EXPENDITURE REQUIREMENTS*

Capital expenditure requirements are projected to exceed $7 million by 1985. Specific expenditures projected before 1985 are summarized below (in inflated dollars):

1. Construction of a new municipal building in 1978-79 ($1.5 million).
2. New public works garage in 1983-84 ($1.2 million).
3. Additional fire station and equipment in 1980-81 ($346,000).
4. Improvements to the sewer system in 1978-79 ($445,000).
5. Developments of a new landfill in 1979-80 and purchase of equipment each year (Total cost - $538,000).
6. Development of Stratton-Meyers Park and completion of several other parks (Total cost - $739,000).

*Stuart/Nichols Associates
Impact Analysis Town of Green River
October 31, 1978

Senator WALLOP. The big problem we have there is they think we ought to be colonized. [Laughter.]

The next speaker is Mayor Jerry Olsen of Kemmerer.

STATEMENT OF HON. JERRY OLSEN, MAYOR OF KEMMERER, WYO.

Mr. OLSEN. Morning, Senators. I'm glad to see you in this part of the country instead of having to go back East to make my presentation.

It's kind of hard for me to come in after we have had an illustrious representation not only from the house of representatives and the State of Wyoming, but many other mayors and county commissioners.

In principal, the city of Kemmerer, or the town of Kemmerer, which it legally is, is in favor of this aspect of the bill. But, again, all the property taxes and what have you that would be derived from energy impact or any other impact in terms of a new plant of whatever nature, is in the county. Historically in Wyoming all industy is located in the county. The city gets all of the problems, in terms of people problems, with no tax base from the industry other than local taxes that are accumulated from property owned by their employees.

For example, the city of Kemmerer last year had approximately 5,000—or let me start over. Had less than $50,000 in property tax revenue, out of a budget that was $2.4 million to run the community for this length of time, for a period of 1 year. So the amount of money we received from property taxes is what you would say is one of the lowest revenues we received on an overall budgetary account, trying to balance the budget type of operation. Of course, one of the reasons for this is we are basically veteran communities, as they would refer to in the East with no industry in the community. Now, if there was some way or other that you could write this legislation to include industry within the city limits, it might solve some of the municipal's problems that are going on. But I think that's wishful thinking on the part of some of the mayors around the State.

Senator WALLOP. I think Mr. Profit and Mr. Micheli might take a dim view of our trying to do that.

Mr. OLSEN. I agree. In terms of some of the questions that were asked earlier, we talked about what impact benefit has been.

The census in Kemmerer, Wyo., in 1980 showed about 2,800 people. In 1980, the official census came up with about 3,200. We never agreed with them. They had 170 and some vacant houses in town and you couldn't find a place to live there. But they found them and nobody else could seem to find them. We had a lot of problems with the 1980 census and we protested it, but unless we went to court, there was nothing we could do about it.

In 1982, we have a conflict of how many people are in the community, but the U.S. Post Office ran a survey based upon how many stops they make and post office boxes they have and they came up with the most recent one and I don't have the exact figure, but it's approximately 6,500.

Senator ARMSTRONG. In the city or county?

Mr. OLSEN. In the city, or in the town. It's legally a town. We keep throwing the words back and forth.

There is 6,500 people. Some estimates show it as low as 5,000. But in any situation, we most probably, since 1970, experienced in excess of 100 percent expansion, in one form or another. We have been somewhat lucky, or shall we say, are working well with the present industry in the area, which is more the mining and power producing industry, in terms of mining coal. They have, over the period of years, put a circle around themselves and called themselves a water/sewer district, which we are able to tax them on in order to help our communities in terms of water/sewage improvements. By this, for example, we built this or—or not this year. We just completed it this year. But it was really built last year, a new sewer plant of which EPA furnished 75 percent of the funds. The State furnished about 12 percent and the water/sewer district furnished the other 12 or 13 percent of funding. So we have had some assistance there in terms of just self-help. A way for them to write off how they helped us, we definitely would encourage that idea.

If the industries gave us grants or loans or mitigation, depending upon who you are talking to and what you call it, they could have a tax writeoff, because I feel that this would make it easier for us to twist their arm to help us. So far the community of Kemmerer, from the oil industry, has received approximately $40,0 0 in moneys for police, helping in that area. We have not received it yet, but have agreements with them to help us pay for some additional planning that I think is badly needed throughout the comunity for future expansion.

One of the problems we have faced—and exactly how this relates to this bill is sometimes hard—is to try to define if we are going to et the impact or not from the oil industry and, if so, how much. Since all of the big dollar development is on this side of the county line, in Uinta County, Lincoln County is receiving moneys from the fields that are in there, but are not going to receive money from the plants because it's across the line. In physical situations, which you might understand it, maybe, a little bit better, the plants that are being built are really almost falf way between the towns of Evanston and Kemmerer and there is hardly anything in between except a few ranch houses, but very few. in terms of where the people locate, in talking with the oil industry and various people, it seems to be right now they locate wherever they can find a place to lay their bones down. We have some figures where people are commuting as far as 100 miles a day, one way, in order to work in this industry, in this area, just because of the availability of housing and what have you.

As just sort of a history, I would repeat, I think the overall concept of the bill is good. I think we have some legislative problems, both in the State and I think we have some problems that we need to work out as a municipality with the counties and State in terms of how do we receive money back from some nature of this that could help the communities on a local basis.

If you want to know how much time I spend, I estimate about 40 percent of my working time is spent in terms of being mayor of the town.

Any questions?

Senator ARMSTRONG. No; but I'm very much appreciative of your statement. It's very helpful.

Senator WALLOP. I know first hand what you're speaking of when you talk about having things take place that are outside of your county lines, outside of your city lines, that cause you to still have the problems to resolve. But the tax base now and in the future is going to be somewhere else. Of course, my own community of Sheridan is not unlike that with all of the—and it's even worse because that money doesn't go to Wyoming. It goes to Montana with all the mining just on the other side of the border and no place to live there, in that State. So we had to build roads out to the State line and we have had to provide hospitals and schools and other things for them and nothing in this bill except the gifting provisions of the good will that might accrue or come from that would help us there. Of course, it's not possible for us and Congress, I think, in this kind of a concept to cross political subdivision lines from State or counties or municipalities. We hope that the gifting provisions that are in here do provide an incentive.

We did talk yesterday down in Grand Junction and we have got the agreement of both the corporate witnesses and the government witnesses that should somebody prepay taxes for some purpose that was recognized under here and mutually agreed upon by the entities and the entity that was causing impact didn't occur, for instance if they didn't build an oil shale refinery or in our case, in Wyoming, if they didn't build a synthetic fuel plant, that that would be a loss for the company who had prepaid the taxes and not to the community who had received them. In other words, the community wouldn't suddenly incur an obligation, should it happen that they didn't come to pass. I think it's necessary for us to be reassured, to reassure folks along that and make sure that our bill says that, but it's their interpretation and ours that it does.

Mr. OLSEN. One of the other problems you get into, Senators, in terms of the line you're talking to, for example, we anticipate a growth rate of, say, 50 percent and when we go ahead and build a water plant to accommodate a growth of 50 percent and the growth doesn't come, it turns around and becomes a real burden to the taxpayers because to operate that plant is going to substantially increase the water bills of the local community on a per gallon or per month or whatever basis you're working on, just to pay for a—shall we say—a larger plant than necessary to operate over a period of years until, by some other means, you start to need it.

Senator WALLOP. Buffalo has had that problem with their often promised wedding, but never appearing bridegroom between Reynolds/Meadows and Texaco with a synthetic plant up there. They have been gunned up a number of times and done a number of things in anticipation of that. Of course, it's never come. It's been hard on them. In that case, a prepayment of taxes might have been a real benefit to that scenario, had it taken place and had somebody said, "Yeah. We are coming in and we'll prepay some taxes to help you get along with these county problems." Then they not having appeared, at least it would be paid for and the assessments wouldn't have—or the potential assessment wouldn't be so great.

Mr. OLSEN. It would also be to the point that, for example, we had a meeting in our community about 1 week ago where we dis-

cussed additional three sour gas plants, shall we say, to be built in our neighborhood. The concerns at that time were we may build it based upon our company, based upon this and based upon that and these are the things that become very frustrating to us. What do we need to cope with this? Do we or don't we? If they would get to the point that we could get them to commit themselves by prepaying taxes, at least the indication would be that they would.

One of the things we have and I can understand it in terms of industry. They have a tendency until everything—as I call it—is dipped in bronze not to want to commit that they are going to definitely do something and by having some requirement that they prepay taxes, almost, maybe, would be able to lock us in at an earlier date that maybe they were going to do something sooner than they would let us know otherwise.

Senator WALLOP. Thank you very much, Mayor. I appreciate it.

Next is Mr. Glenn Sugano on behalf of Mayor Keith West of Rock Springs.

Good morning, Glenn.

STATEMENT OF GLENN SUGANO, DIRECTOR OF PUBLIC WORKS, CITY OF ROCK SPRINGS, WYO.

Mr. SUGANO. Good morning.

Senators Wallop and Armstrong, members of the staff, members of the audience.

My name is Glenn Sugano. I'm director of public works for the city of Rock Springs. I'm here in behalf of Mayor C. Keith West, who was called away on business yesterday, so I'm kind of pinch hitting.

Senator WALLOP. I'm glad you're here.

Mr. SUGANO. Our statement will consist of two parts. First, we have an enforcement of Senate bill 1919. The second parts are just some of our concerns and some of the problems that have occurred in Rock Springs and we would like to make that a part of the public record.

Speaking on behalf of the city of Rock Springs and our mayor, C. Keith West, I would like to compliment Senators Wallop and Armstrong on their efforts to promote Senate bill 1919, amending the Internal Revenue Code of 1954 to assist energy impacted communities by providing for major energy and resource development activities to prepay property and other taxes and by granting more latitude for writing off donations. If prepayment of these taxes and greater tax writeoff latitude is allowed, this could be a great step forward in the attempt to mitigate impact pressures in affected communities.

During the 1970's, many communities experienced severe impact from the rapid development of the mining and energy industries. Rock Springs in particular became synonomous with the term "boom town." To a significant extent, the problems suffered by boom towns are a direct result of their inability to cope with the financial demands rapid population growth puts on community services. Impacted communities achieve their most rapid growth during the construction phase of mining and energy related development. During construction, mines and plants are nonproductive,

therefore, their contribution to severance and royalty taxes in nonexistent. Because the mines and plants are under construction, they likewise have very little assessed value for property taxes.

There are many examples of the relationship of construction versus operational phases of mines and plants. In Sweetwater County the construction force for the Pacific Power & Light powerplant was 3,000; and the operational force is 475. Construction of the Tenneco Trona Mine demanded 1,200 persons; and their operational employment is expected to peak at 390.

These two examples serve to illustrate that "impact" comes during construction. Communities need larger police forces, better equipped fire departments, expanded recreational facilities, increased housing production and more schools and they need these facilities immediately, not 3 to 5 years later after the plant or mine is producing and contributing to the tax base. A prepayment tax plan and tax incentives for donations to communities faced with impact pressures will help these communities when they are most desperate, provide revenues up front, at the beginning of construction.

While we realize that there may be constitutional problems in the State of Wyoming, we feel that the Federal Government must support this tax plan. Wyoming is a State of proud people. We have always been willing to help ourselves. If the Federal Government can pull its own weight at its legislative level, you can be assured that the citizens of Wyoming will forge ahead and make the best of the opportunity presented to them.

The second part of our statement, although we feel that Senate bill 1919 will be of great assistance to energy impacted communities, there is one major problem which all impacted communities share which cannot be mitigated by prepayment of taxes or donations to public agencies. This is the problem of insufficient housing. This problem is compounded by high construction costs and unrealistically high land prices. Often, even when housing is available, the price is out of reach for the average wage earner.

One of the major contributors to high land costs in Rock Spings is the Federal Government. Under most circumstances, the only fair way to release Federal land to the private sector for housing would be in an open and competitive bid situation with fair market value being the minimum allowable bid. Unfortunately, in Rock Springs, and probably here in Evanston, there are very few major landowners, one being the Federal Government or the Bureau of Land Management. With the land grant companies being the other major private landowners, this situation results in exorbitant land prices. A land grant company makes a land sale and BLM makes a land sale at the price set by the land grant company. The land grant company then sells other lands at a price based upon the BLM's sale. This situation has resulted in escalated land prices because, in effect, the land grant company is selling land at increasingly higher prices solely on their own sales. In Rock Springs the situation has become so bad that BLM has been unable to sell property in an open-bid situation because the minimum bid may not be less than the established fair market value, the value established by the land grant companies. There must be a way to have Federal lands released to the private sector in a manner that can benefit

the public. As it exists now, the citizens of many impacted communities are the victims of a conflict between two Federal programs. One program "granted" land to private interests to facilitate the construction of the railroad system. The other demands that no other Federal land can be sold unless it is sold for a value established by those who received free land from the Government. Secretary Watt has been apprised of this situation and as of yet has not been able to provide a solution to these spiraling land prices. To date, the growth of Rock Springs is at the mercy of the Federal Government through the Bureau of Land Management and companies who received land from the Federal Government in earlier years.

I might at this time add that the Bureau of Land Management has been very cooperative with the city of Rock Springs. We realize that they are at the mercy of the regulations set by our elected officials. To this end, we hope that these same elected officials are able to facilitate this unfortunate situation.

The last item I wish to discuss also involves housing. While there are several programs at both the State and Federal levels to assist low-income persons achieve affordable housing, there is little to assist the average working family. In impacted areas, because of relatively higher costs of living, it is not uncommon to see a family with both the husband and wife working and yet still unable to afford adequate housing. Something must be done to assist these people. They are hard working and industrious. Both are neither wealthy enough to afford what used to be the average home nor disadvantaged enough to be eligible for housing assistance.

While we realize this situation is not unique to growth impacted areas, it is certainly a more common phenomenon in these communities. It is most certainly a problem which we must deal with.

In summary, I would like to stress that S. 1919 could be of invaluable assisance to energy impacted communities but that there is another extremely critical problem in these communities and that is insufficient housing. While the incomes are high, the cost of living seems to be even higher. We, with your assistance, must find a way for the average family to afford a house.

I thank you for allowing me, on behalf of Rock Springs and Mayor C. Keith West, to appear before you and express these views and concerns.

Senator WALLOP. Again, I really thank you and I am glad to get that second portion of your testimony on the record. I have talked with Keith about it. Watt has a program which he has tried to institute which is the so-called good neighbor policy and asked people to indentify types of land that could be released to them. There is an incredible tension that goes on between that policy of the Interior and the General Services Administration and GAO, all of whom feel that the good neighbor policy is, you know, something out of the Middle Ages that might be best satisfied in the way in which it gets even more money from the Federal Government. We are engaged in a little struggle right now. You probably been reading about it. The Percy bill is to sell off surface land to cover the debt and the Watt good neighbor policy, which is to try to get those into the kinds of hands that you have so eloquently and artfully described here.

Mr. SUGANO. Well, we feel we are landlocked in Rock Springs and we need all of the help we can because on of the main goals in Rocks Springs is to provide adequate housing and sufficient housing so we don't end up with the bachelor quarters that we had in the mid 1970's. We are trying to improve the lifestyle in Rock Springs and we think to have people in permanent housing would be the way to go.

Senator WALLOP. I might also compliment you on, perhaps, the best drawn example of why prepayment in taxes might be something clearly to be considered by political entities. That is, the high number of people that are there in the construction phase versus the lower number of people that are there subsequently when the tax base finally is in place. You can't think of a better time to have up front money than when you have up front problems and I really think this is a very good statement.

Bill?

Senator ARMSTRONG. This whole land use problem is getting so serious, it's getting enough to make a Sage Brush Rebellion out of you. [Laughter.]

Mr. Sugano, you mentioned, but I didn't note, what your position is. I'm sorry.

Mr. SUGANO. Director of public works in the city of Rock Springs.

Senator ARMSTRONG. You did say that I didn't see it in the statement. I didn't write it down at the time.

What was the period of time over in Sweetwater County in which the construction force came and peaked and declined then to the operational force in the case of the powerplant with 475 and in the case of the mine peaking at 1,200 and back down to 390 in operations.

Mr. SUGANO. I wasn't with the city at the time, but I believe the boom started in 1972 and peaked through the mid-1970's and finally finished in about 1979.

Senator ARMSTRONG. So the 475 is about the present employment at the Pacific Power & Light Co. facility?

Mr. SUGANO. Yes.

Senator ARMSTRONG. The reason I raise that is we were talking about very fast responses. We are talking about a problem that arises quickly and peaks and dies or dissipates quite quickly and you haven't a program to build schools that pays for them over 20 years, couldn't respond for it no matter when you start it.

Mr. SUGANO. That's correct. The powerplant was built in three stages. Also, we suffered a lot of impact during the first couple of years with thousands of workers impacting Rock Springs and then as Pacific Power & Light was able to sell electricity, they added more generators and the project has stayed in our community.

[The prepared statement of Mayor C. Keith West follows:]

STATEMENT

ENDORSING

ENERGY COMMUNITY SELF-HELP ACT

OF

1981

Evanston, Wyoming

Presented By

City of Rock Springs

April 17, 1982

Speaking on behalf of the City of Rock Springs and our Mayor, C. Keith West, I would like to compliment Senator Wallop on his efforts to promote Senate Bill 1919 amending the Internal Revenue Code of 1954 to assist energy impacted communities by providing for major energy and resource development activities to pre-pay property and other taxes and by granting more latitude for writing off donations. If pre-payment of these taxes and greater tax write-off latitude is allowed, this could be a great step forwards in the attempt to mitigate impact pressures in affected communities.

During the 1970's many communities experienced severe impact from the rapid development of the mining and energy industries. Rock Springs in particular became synonomous with the term "boom town." To a significant extent the problems suffered by "boom towns" are a direct result of their inability to cope with the financial demands rapid population growth puts on community services.

Impacted communities achieve their most rapid growth during the construction phase of mining and energy related development. During construction, mines and plants are non-productive, therefore, their contribution to severance and royalty taxes is non-existent. Because the mines and plants are under construction, they likewise have very little assessed value for property tax purposes.

There are many examples of the relationship of construction versus operational phases of mines and plants. In Sweetwater County, the construction force for the Pacific Power and Light Power Plant was 3,000; the operational force is 475. Construction of the Tenneco Trona Mine demanded 1,200 persons; their operational employment is expected to peak at 390.

These two examples serve to illustrate that "impact" comes during construction. Communities need larger police forces, better equipped fire departments, expanded recreational facilities, increased housing production and more

schools, and they need these facilities immediately, not three to five years later after a plant or mine is producing and contributing to the tax base.

A pre-payment tax plan and tax incentives for donations to communities faced with impact pressures will help these communities when they are most desperate, providing revenues up front, at the beginning of construction.

While we realize that there may be constitutional problems in the State of Wyoming, we feel that the Federal government must support this tax plan. Wyoming is a state of proud people. We have always been willing to help ourselves. If the Federal government can pull its own weight at its legislative level, you can be assured that the citizens of Wyoming will forge ahead and make the best of the opportunity presented to them.

* * * *

Although we feel that Senate Bill 1919 will be of great assistance to Energy Impacted Communities, there is one major problem which all impacted communities share which can not be mitigated by prepayment of taxes or donations to public agencies. This is the problem of insufficient housing. This problem is compounded by high construction costs and unrealistically high land prices. Often even when housing is available, the price is out of reach of the average wage earner.

One of the major contributors to high land costs in Rock Springs is the Federal government. Under most circumstances, the only fair way to release Federal land to the private sector for housing would be in an open and competitive bid situation with fair market value being the minimum allowable bid. Unfortunately in Rock Springs, and probably here in Evanston, there are very few major land owners,one being the Federal Government (BLM).

With the land grant companies being the other major private land owners this situation results in exorbitant land prices. A land grant company makes a

land sale, BLM makes a land sale at the price set by the land grant company; the land grant company then sells other lands at a price based upon BLM's sale. This situation has resulted in escalated land prices because, in effect, the land grant company is selling land at increasingly higher prices based solely on their own sales.

In Rock Springs the situation has become so bad that BLM has been unable to sell property in an open bid situation because the minimum bid may not be less than the established fair market value - the value established by the land grant companies.

There must be a way to have Federal lands released to the private sector in a manner that can benefit the public. As it exists now, the citizens of many impacted communities are the victims of a conflict between two Federal programs. One program "granted" land to private interests to facilitate the construction of the railroad system. The other demands that no other Federal land can be sold unless it is sold for a value established by those who received free land from the government. Secretary Watt has been apprised of this situation and as yet has not been able to provide a solution to these spiraling land prices.

To date the growth of Rock Springs is at the mercy of the Federal government through Bureau of Land Management and companies who received land fr.m the Federal government in earlier years.

I might at this time add that the Bureau of Land Management has been very cooperative with the City of Rock Springs. We realize that they are at ... mercy of the regulations set by our elected officials. To this end, we . pe that these same elected officials are able to facilitate this unfortunate situation.

The last item I wish to discuss also involves housing. While there are several programs at both the State and Federal levels to assist low income persons achieve affordable housing, there is little to assist the average working family. In impacted areas, because of relatively higher costs of

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living, it is not uncommon to see a family with both the husband and wife working and yet still unable to afford adequate housing. Something must be done to assist these people. They are hard-working and industrious. Both are neither wealthy enough to afford what used to be the average home nor disadvantaged enough to be eligible for housing assistance.

While we realize this situation is not unique to growth impacted areas, it is certainly a more common phenomenon in these communities. It is most certainly a problem with which we must deal.

In summary, I would like to stress that Senate Bill 1919 could be of invaluable assistance to energy impacted communities but that there is another extremely critical problem in these communities and that is insufficient housing. While the incomes are high, the cost of living seems to be even nigher. We, with your assistance, must find a way for the average family to afford a house.

I thank you for allowing me, on behalf of Rock Springs and Mayor C. Keith West, to appear before you and express our views and concerns.

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Senator ARMSTRONG. Excellent statement. Thank you very much.

Senator WALLOP. Thank you very much and thank the mayor for me for the statement and having you come down.

Now, as Mayor Ottley stated, Steve Snyder, who is the city administrator, cannot be here, but has submitted a statement which will be part of the record.

[The prepared statement of Steve Snyder follows:]

PREPARED STATEMENT OF STEVE SNYDER

Mr. Chairman, thank you for the opportunity to present these brief comments on your proposed legislation to relieve energy impact problems.

As previously shown, energy development brings about rapid growth seemingly over night, while "institutional lag" does not allow for over night revenue growth. People and their needs present themselves immediately, while services are not in place for at least 1 to 2 years down the road. Prepayment of taxes or outright direct purchase by industry would certainly be a step in the right direction to minimize impact.

I would like to emphasize that the typical impact situation shows industry located in the county and provides a substantial tax base and revenues for the county, while it is the primary responsibility of incorporated cities and towns to provide basic services to the individuals and their homes. It would be appropriate to provide a clear cut mechanism that would provide up front assistance to the cities and towns as well as the counties. As an example, the city of Evanston's current budget shows only 1 percent of its revenues from ad valorem property tax, which is $85,000 out of an $8.5 million operating budget. Obviously, we feel there is a definite need to be able to enjoy some of the benefits provided by energy development.

Again, we thank you for the opportunity to speak with you this morning and would be available to supply any other information you think appropriate.

Senator WALLOP. Next is Mr. Buzz Hunt, who is the director of the Utah Division of Economic Development.

Good morning to you, sir.

STATEMENT OF BUZZ HUNT, DIRECTOR OF THE UTAH DIVISION OF COMMUNITY DEVELOPMENT

Mr. HUNT. Mr. Chairman and members of the subcommittee, Senator Armstrong.

My name is Buzz Hunt. I serve as director of the Utah Division of Community Development, which has responsibilities for administering the State, community impact acts and other growth management and impact mitigation programs for the State of Utah.

I am extremely pleased to submit testimony today in support of Gov. Scott Matheson of the State of Utah in support of Senate bill 1919, a bill to encourage private sector participation in the alleviation of socioeconomic impacts. The proposed legislation would greatly enhance our efforts to encourage energy developers to assist Utah communities in expanding and rebuilding our public intrastructure and would stimulate innovative and flexible methods of funding.

Last year Governor Matheson signed into State law, legislation authorizing prepayment of property tax for the purpose of mitigating fiscal impacts associated with resource development projects. Three other Western States have similar laws and several others have considered adopting what I believe is a sound growth management tool. Unfortunately, the incentive to utilize the prepayment option appears somewhat constrained by existing Federal law. Removal of these constraints via the provision of Senate bill 1919 would be consistent with and supportive of Utah's efforts to manage growth in our impacted communities.

Before discussing the specific merits of the proposed legislation, I would like to briefly review the general context within which this and similar initiatives must be intertwined. I am referring to the growing and sometimes overlooked pressures on public finance at the State and local levels. The more youthful, rural communities of the West, despite their energy growth potential, are no more immune from this crisis than the older, urban centers of the East. The financial burden of critical Government services is being shifted away from Washington at a time when public intrastructure is either decaying or woefully inadequate to accommodate existing populations, let alone the dramatic growth that a large energy project might bring. More problematic is that the ability of States and municipalities to borrow is withering away under the fallout of record-breaking interest rates. Since 1977, the rates that State and local governments have had to pay for money has nearly doubled. Some jurisdictions have suspended new bond offerings indefinitely. To make matters worse, Federal initiatives to provide special tax-exempt investment vehicles such as the all-savers certificates have served to reduce the attractiveness of tax-exempt State and local bonds among traditional purchasers.

In addition to the limited availability of capital, Federal grants to States and cities, while representing only about 14 percent of the Federal budget, are the target of one-third of the proposed budget cuts. Under the administration proposal, by 1983, Federal grants as a percent of total State and local revenues will have dropped a dramatic 28 percent. Meanwhile, the growth rate in locally generated State and local government revenues has steadily fallen over the past 4 years, a trend unlikely to reverse itself under the current economic climate. What I fear most from all of these statistics is that the impending revenue squeeze will lead to nearsighted, stopgap solutions to our ever growing need to invest in, refurbish, and expand our community infrastructure. The fatal irony in the administration's new economics is that the growth upon which it is predicated cannot occur without adequate water, sewage, roads, and other capital facilities. It is in this sense that the true test of Reaganomics will come at the State and local levels. If the State and local governments cannot solve the public finance crisis, the effects could well be devastating.

While private investment has always been the staple for economic growth throughout our history, virtually every stage of our ascent to affluence required a balance between private- and public-sector investments. The great canal era and railroad boom of the early and late 19th century was mainly financed by private capital; but public subsidies were largely responsible for providing a favorable investment climate. The same was true during the growth of our great manufacturing centers whose dense concentrations of population were dependent on public spending for streets, bridges, and mass transit. The great auto boom of the 20th century and the post-World War airliner boom were similarly made possible by public investment in roads, highways, and airports. I can see no reason to believe that this historical necessity for balanced investment has come to an end. Consequently, if and when the administration's economic program does stimulate private investment, it is likely to self-destruct unless State and local governments find suffi-

cient resource and management tools to build the public facilities needed to support economic growth.

Here in the intermountain west, energy and natural resource development potential may well provide us with the basis for renewed and continued prosperity for both our regional and national economies. Coal development and exportation, powerplant construction and operation, oil and gas production and refining, and the development of synthetic fuels from oil shale, tar sands, and coal can potentially provide tens of thousands of new jobs and stimulate our stagnating gross national product. The production of 100,000 barrels per day of synthetic fuel, for example, would have a total cumulative income effect of more than $25 billion and improve our balance of payments by $1.3 billion each year.

But these large-scale energy and industrial projects, just like those of earlier stages in our Nation's history, require a balance of both public and private sector investments. More than ever we need to work together to find innovative solutions to our common capital financing problems. Utahans have struggled throughout the past decade to create an economic, political and regulatory climate that encourages energy growth, while at the same time integrating that growth into orderly development of necessary public services and the continued integrity of the families and communities which characterize our heritage. We have refined our State role of facilitator of development while simultaneously defining the parameters within which acceptable development can occur. Good things must happen to our communities as a result of energy development. We must continue to plan carefully with private developers to avoid the dysfunctional pattern of boom/bust development that frequently characterizes energy growth. We have insisted that the responsibility of planning for and mitigating socioeconomic impacts is a joint responsibility of Government and industry. Utahans, and I think westerners in general, are determined that some future chronicle of present events will not write as Wallace Stegner did of an earlier era, "The West was not settled, it was plundered."

Growth management is an ongoing process and in Utah, we continue our effort to design policies, legislation and management techniques to foster prudent economic and community development. The 1981 legislation, of which I spoke earlier, authorizes the prepayment of property tax for impact mitigation. The act also amended the Utah Resource Development Code to require all major developers to submit a fiscal impact statement to the State and affected communities together with a financing plan to alleviate impacts. The financing plan must be coordinated with policy and plans of both State and local governments who are currently working with developers to identify innovative mechanisms to satisfy our public investment needs. State and local governments as well as private developers, recognize that funds will not likely be available through conventional financing methods. Aside from current problems in the capital markets, issuance of general obligation bonds, as an example, may be limited by constitutional restrictions or may be imprudently risky for small jurisdictions since no guarantee exists for repayment or that impacts will behave as predicted. Therefore, other more innovative financing methods are being explored by both Utah government units and developers.

The tone of these joint efforts is to provide as much flexibility as possible so that the public sector can share and benefit from the financing expertise within the private sector. Our goal is to draw up a menu of all possible financing alternatives that will, hopefully, address each unique situation. This menu might include, for example, bond payment guarantees, full or partial debt service subsidies, bond purchasers, grant/loan combinations, lease/purchase options, and, of course, tax prepayment among others. The point to emphasize is that we must provide industry with flexibility and, whenever possible, to encourage new and innovative sclutions to our public finance crisis.

Because of our ongoing efforts to induce private sector participation in our public investment strategy and to promote maximum flexibility in alternative financing mechanisms, we are extremely pleased with the current efforts of Senators Armstrong, Wallop, and others. The Energy Community Self-Help Act of 1981, Senate bill 1919, would help remove institutional constraints which limit alternative financing methods for cooperative government/industry funding of needed community intrastructure. An example of how Federal tax obstacles currently limit our flexibility was brought to my attention just recently. A major oil shale developer in the Uintah Basin informed me that the Utah tax prepayment option was not viable because Federal law only gives a tax deduction for local and State tax liabilities in the year they are incurred. In other words, deductions are only allowed year by year. Consequently, energy companies electing to prepay property taxes for the purpose of building schools, roads, water and sewer systems, and other facilities cannot deduct the full amount of these expenditures in the same year they are actually paid. This timing problem is sufficiently costly to developers as to effectively nullify the incentive to utilize the prepayment option. The proposed Energy Community Self-Help Act would remove this Federal tax obstacle by allowing companies to deduct the full amount of prepaid taxes in the same year they are expended. We fully support this provision.

The proposed legislation addresses an additional obstacle in Federal tax law that also inhibits industry flexibility. Under provisions of the current Internal Revenue Code, private developers lack certainty about which specific impact mitigation expenditures are deductible, as well as when and under what circumstances their contribution would be considered allowable deductions. Senate bill 1919 would create a new section in the Internal Revenue Code allowing developers a deduction for energy impact expenditures, both direct contributions and expenses associated with purchasing or guaranteeing bonds, and thereby clarifying current uncertainties. This approach is both consistent with and supportive of the Utah approach to growth management, and we endorse these measures.

There are, however, two minor modifications we believe could strengthen the bill in terms of potential application and in providing State and local governments with greater flexibility. These suggestions refer to the way in which the bill presently defines the terms "qualified energy impact assistance," and "operation of major energy and resource development activities." The latter term would seem to restrict potential application of the bill by imposing a $50 million threshold on eligible projects. My concern with this

threshold level is that it may exclude much of the conventional oil and gas activity that has accelerated throughout the country. Although exploration and development activities may have minimal impacts when viewed independently, for example on a well by well basis, their cumulative impacts can be as burdensome as large coal or synthetic fuel projects. There is no similar threshold level in the Utah law allowing tax prepayment and I would prefer to see the tax incentives of the proposed legislation extended to all resource development companies regardless of size. This would allow, for example, oil and gas exploration firms or a consortium of such firms to participate in impact mitigation and enjoy the same tax advantages offered to sponsors of larger projects.

We would also prefer to modify the term "qualified energy impact assistance" to specify that these expenditures have been made in consultation and accordance with the State, any subdivision of the State or the governing body of Indian tribes with jurisdiction over the area in which the public facilities or services are to be provided. This language would more fully clarify the role of State and local governments in coordinating an efficient community investment strategy. It would give us greater leverage in using our limited public resources, allow advance planning and time to coordinate financing plans with other potential funding sources and, perhaps, most important, would promote the general concept of government/industry partnership which I feel is in line with the overall philosophy of Senate bill 1919.

In summary, congressional approval of Senate bill 1919 would greatly facilitate our efforts to design and implement an effective growth management policy and to stimulate a balance between public and private sector investment. The removal of Federal tax obstacles and the provision of incentives for industry to participate in our public investment needs is an important step in providing additional resources and flexibility to State and local governments. Moreover, the Energy Community Self-Help Act is coming at an especially critical time. It comes at a time when our public intrastructure is either decaying or inadequate to facilitate growth, when the ability of States and cities to borrow is seriously weakening and when State and local revenues are shrinking.

We view the proposed legislation as part of an ongoing Federal commitment, a commitment to stand willing and able to invest in American communities, in American people and in the American will to revitalize our economy and prosperity. As public policymakers, we urge you to reconfirm this commitment.

Mr. Chairman and members of the subcommittee, we appreciate this opportunity to comment on the proposed legislation and related issues.

Senator WALLOP. Thank you very much, Mr. Hunt. Please convey our thanks to the Governor and his officials, as well as officials in your service to deliver his statement.

Bill, do you have any questions?

Senator ARMSTRONG. I want to join you in expressing thanks to the Governor for his interest in this problem. I will be frank to say that I disagree with some aspects of his statement. I like very much his emphasis on his need to rebuild and, in fact, to expand the community intrastructures. I am convinced in a large measure

he's absolutely correct in describing the interstate highway system and so on and I don't believe you mentioned that, but the kind of elements of intrastructure that have facilitated growth in the private sector and so I will reflect seriously on the observations he has made and I appreciate it.

Mr. HUNT. Thank you, sir.

Senator WALLOP. We had conversations as well, yesterday in Grand Junction, about the $50 million provision and recognize what that might do, even including here and in Evanston, the difficulty that comes and if you have a concept that you would care to design and recommend to us, we would be happy to have it. Difficulty comes in tying this down to the kind of problems that we really want to address and not to make it a nationwide bill, as a substitute for a number of other kinds of things mentioned earlier. We don't want to have Disney Land qualifying because that's not our purpose. There may be some purpose involved down there, but that's not our purpose and that's not what we are trying to address here. I fear we would lose any opportunity to pass this legislation if we are not able, some how or another, to tie it to the problems that we are seeking to address. So if you can make a suggestion to us as to how you might structure that, keeping in mind what we are trying to get done, we would be very appreciative of that and would consider it.

The other thing with regards to your modification of the term "qualified energy impact assistance," I don't want to get into a funny area here, but the governing body of Indian tribes with jurisdiction over the area which public facilities or service are to be provided in Utah, do they have the power to tax and collect taxes?

Mr. HUNT. Oh, yes.

Senator WALLOP. OK. To the extent, then, that they do have, do they collect taxes in lieu of the State and do that have property tax?

Mr. HUNT. Yes, independent of the State or local taxes.

Senator WALLOP. Does the State as well assess on Indian lands or just——

Mr. HUNT. No. I am unclear on that, but I don't believe they do.

Senator WALLOP [continuing]. In Wyoming they collect royalties and I don't believe that they assess ad valorem taxes.

Mr. HUNT. I'm not absolutely certain on that point. I will have to check.

Senator WALLOP. At any rate, I do thank you for coming up here this morning and I know it's a fair drive for a day that you have required——

Mr. HUNT. I'm happy for the opportunity to be here.

Senator WALLOP [continuing]. The next speaker is Mr. Owen Murphy representing Chevron, U.S.A. on behalf of the Rocky Mountain Oil & Gas Association.

Good morning, Mr. Murphy.

STATEMENT OF OWEN MURPHY, VICE PRESIDENT, ROCKY MOUNTAIN OIL & GAS ASSOCIATION

Mr. MURPHY. I don't understand how you have time to read all of this that's being recorded, but at any rate, good morning, gentlemen.

My name is Owen Murphy and I am the public affairs manager for Chevron U.S.A., Inc. and vice president of the Rocky Mountain Oil & Gas Association.

At the outset, let me say that we strongly support Senate bill 1919.

Thank you, Senator Wallop and Senator Armstrong, for the opportunity to participate today. Before beginning my formal remarks, let me take a moment to commend both of you for recognizing, first, the seriousness of the problems which can accompany a rapid growth situation and, secondly, the importance of finding cost efficient solutions which involve a public/private partnership at the local level and avoid new, expensive, Federal programs.

My testimony today reflects my position as vice president of the Rocky Mountain Oil & Gas Association. Let me be clear, however, that while I am president of the Overthrust Industrial Association, I am not speaking for OIA, which is a public charity and, as such, takes no position on any Federal legislation. We don't want to take any chances on our IRS——

Senator WALLOP. I withdraw any situation that we made that we might be talking about that.

Mr. MURPHY [continuing]. Thank you, sir.

Rocky Mountain Oil & Gas Association supports Senate bill 1919 with the modifications recommended yesterday, I understand, by the Western Regional Council. My testimony today will touch briefly upon three subjects, the elements and a good solution to the problems opf rapid growth; the innovative efforts which the people of southwestern Wyoming have undertaken to help themselves; and, thirdly, the Federal role in these solutions. I will not discuss the problems which will accompany rapid growth, for they are well documented by local officials and the OIA.

Now, let me trace the elements of a good overall solution to the issue of impact mitigation and how Senate bill 1919 and other help from you can assist in implementing this solution.

First, the solution to the impact mitigation issue should rely on the expertise of local government for the management of mitigation programs. The county commissioners, mayors, city councils, planning commissions, and other local leaders are the ones most sensitive to the needs of their communities. Yet, a solution must be sufficiently flexible to allow local governments the benefit of technical assistance from those who may have experienced rapid growth before, or others who have professional knowledge of mitigation techniques.

Second, an overall solution should spread the cost of mitigation among all who will benefit from the industrial development which is causing the growth. Simply put, growth should pay its own way. Those who should be involved include the consumers who will benefit from the new resource base or who will use the products; the local people, whether long time or new residents, who will

benefit from increased economic activity or new facilities and services; and, third, of course, the companies who will profit from the development.

Third, an overall mitigation solution should use Government funds or any other resources as cost effectively as possible, with a minimum of waste due to bureaucratic redtape, such as excessive reporting, or application requirements.

Finally, a mitigation solution should be a true partnership among local residents, Government, and area industry, not an academic, superficial effort or one imposed by Government edict, but a true partnership in which all parties search together for comprehensive long-term solutions. I believe that the people of Uinta, Lincoln, Rich, Summit, and Bear Lake Counties in this part of the Overthrust have developed a model solution, the first of its kind in the Nation. Let me recount some of the accomplishments of the Uinta County effort.

First, Uinta County and Evanston now have financed the largest, single capital facilities building program ever undertaken for an existing impacted community including over $20 million in new expanded school facilities, the new county courthouse, an indoor recreation center, an expanded park facility, a new public works shop, a new police station, a human services center designed to house all human services programs, a new sewer system, and a new county library.

Second, Uinta County and local human service providers have undertaken a most ambitious program to expand and improve both the quality and number of programs designed to solve the human problems accompanying this growth. It's each enough, I think to identify the fact that the sewer is inadequate, that there are not enough school rooms or not enough teachers or those sorts of things, but we intend, initially, to overlook the human service needs at the very beginning of impact. People are put in situations in which they are anxious, they tend to beat upon one another and their children and to abuse substances like alcohol and drugs. I think that's not recognized enough. With private industry help, such as provided by OIA, a group of highly capable local volunteers has financed and begun a unique day care center which provides a needed service at below market rates, without any continuing subsidy from any public or private agency.

Also, with the help of an industry technical assistance team, city and county commissions or government agencies, pardon me, have improved their own management skills so significantly that they have been able to assume the burden of managing a greatly increased level of services. These increased skills have allowed the agencies to use local tax moneys so efficiently that they will be able to provide this level of increased services without increasing taxes to long-time residents one dime.

I could continue throughout the afternoon with the accomplishments of the people of Uinta County, but time is short, so let me say that the unique programs which have been implemented in this area are a result of the public/private partnership. Industry and local and State governments have worked together through joint planning; contributions and grants; loans; technical assistance; unique methods for tapping future tax dollars at the front

end of the growth curve. Funding in all areas has been a joint responsibility in which all participants have contributed their fair share.

That brings me to the Federal role in impact mitigation. You are the conduit by which a small portion of the impact mitigation responsibility can be spread among those who will benefit the most from overthrust development, the people of the United States. I believe this participation is vital beause the entire Nation will benefit from the development of the secure, domestic energy resource contained in the Overthrust Belt. S bill 1919 is a very important step in rounding out the public/private partnership which as begun in Uinta County. We wholeheartedly support this legislation.

But we ask you not to stop here. Currently, the Wyoming constitution does not allow tax prepayments, so the bill would have limited application here. I hope that S bill 1919 will be the first step in a process which eventually will result in a full tax credit against Federal income tax for approved mitigation expenditures. Under the safeguards of an appropriate determination process, this would allow a most cost efficient participation in energy development by all the citizens of this Nation, with minimal effect on the Federal Treasury.

Again, let me emphasize that we fully support S bill 1919 and commend you for your innovative thinking on a critical issue. We look forward to working with you to assure it's passage.

Thank you.

Senator WALLOP. Thank you very much.

Bill, do you have any questions?

Senator ARMSTRONG. First rate statement. We ought to make our motto, growth should pay its own way.

Mr. MURPHY. We tried to do that.

Senator ARMSTRONG. That's really 100 percent right, Mr. Murphy. I don't know if you were present, but earlier this morning, I asked how, in general, local government found the energy companies to be and I asked the same questions yesterday in Grand Junction and I have asked it in less formal settings on many occasions and I think the industry is getting a high mark for trying to be responsible about the problems that are attended to large scale energy development and I thank you and your company as well.

Mr. MURPHY. I believe that that is the case. It's difficult to assess, sometimes, the difference between the perception of problems and the problems and I think, also, in the oil and gas industry, we have a further difficulty and we have talked to the mayors and the commissioners about this at length. If you're building a power plant or you have a solid ore body, it's a far different estimate than with oil and gas actitivies. You can define an ore body and you can then detemine the rate you want to develop it. You can determine the rate you want to construct it and all sorts of things you can predetermine, but you can't do that with oil and gas activity. If we drill a well, there is minimal impact regardless of where we do it. One well, if that turns out to be a big one, we still cannot predict the impact because we don't know if we have a well or field and we won't know that until we have done a lot of drilling. It's taken us 5 years to determine if reserves are in Painter's

Reservoir and that add—it's an added problem when you're talking about oil and gas development.

Senator WALLOP. I think you'd agree with me and I'm sure the mayors and county commissioners will. It's not been without attention, but that's what has driven the responsible compromises, I think, that have come out of it. I think expectations, maybe, sometimes run higher than the ability and resistance probably runs lower than the ability and usually the attention that brings it up and you can testify as well that one other thing that isn't mitigated by anything that we propose here, it still rises, a part of what you defined as to perception of problems remains legitimately with folks in this part of the world and that is their comfortable use as it was, no recreation, no scenic enjoyment, all kinds of things. We can't eliminate that fear.

Mr. MURPHY. That's correct.

Senator WALLOP. But it does contribute to the attention that exists here.

Mr. MURPHY. Right.

[The prepared statement of Owen F. Murphy follows:]

SUBJECT: TESTIMONY FOR APRIL 17 HEARING, SB 1919

SPEAKER: OWEN F. MURPHY

DRAFT: APRIL 13, 1982

MY NAME IS OWEN F. MURPHY. I AM PUBLIC AFFAIRS MANAGER FOR CHEVRON U.S.A. INC. AND VICE PRESIDENT OF THE ROCKY MOUNTAIN OIL AND GAS ASSOCIATION.

AT THE OUTSET, LET ME SAY THAT WE STRONGLY SUPPORT SB 1919.

THANK YOU SENATOR WALLOP, SENATOR ARMSTRONG FOR THE OPPORTUNITY TO PARTICIPATE TODAY. BEFORE BEGINNING MY FORMAL REMARKS, LET ME TAKE A MOMENT TO COMMEND BOTH OF YOU FOR RECOGNIZING:

FIRST, THE SERIOUSNESS OF THE PROBLEMS WHICH CAN ACCOMPANY A RAPID GROWTH SITUATION; AND,

SECOND, THE IMPORTANCE OF FINDING COST EFFICIENT SOLUTIONS WHICH INVOLVE A PUBLIC-PRIVATE PARTNERSHIP AT THE LOCAL LEVEL AND AVOID NEW EXPENSIVE, FEDERAL PROGRAMS.

MY TESTIMONY TODAY REFLECTS MY POSITION AS VICE PRESIDENT OF THE ROCKY MOUNTAIN OIL AND GAS ASSOCIATION. LET ME BE CLEAR, HOWEVER, THAT WHILE I AM PRESIDENT OF THE OVERTHRUST INDUSTRIAL ASSOCIATION, I AM NOT SPEAKING FOR THE OVERTHRUST INDUSTRIAL ASSOCIATION.

THE OIA IS A CHARITABLE AGENCY AND, AS SUCH, TAKES NO POSITION ON ANY FEDERAL LEGISLATION.

RMOGA STRONGLY SUPPORTS SB 1919 WITH THE MODIFICATIONS RECOMMENDED BY THE WESTERN REGIONAL COUNCIL.

MY TESTIMONY TODAY WILL BRIEFLY TOUCH UPON THREE SUBJECTS:

1. THE ELEMENTS IN A GOOD SOLUTION TO THE PROBLEMS OF RAPID GROWTH.

2. THE INNOVATIVE EFFORTS WHICH THE PEOPLE OF SOUTHWESTERN WYOMING HAVE UNDERTAKEN TO HELP THEMSELVES.

3. THE FEDERAL ROLE IN THESE SOLUTIONS.

I WILL NOT DISCUSS THE PROBLEMS WHICH CAN ACCOMPANY RAPID GROWTH FOR THEY ARE WELL DOCUMENTED BY LOCAL OFFICIALS AND THE OIA.

NOW LET ME TRACE THE ELEMENTS OF A GOOD OVERALL SOLUTION TO THE ISSUE OF IMPACT MITIGATION AND HOW SB 1919 AND OTHER HELP FROM YOU CAN ASSIST IN IMPLEMENTING THIS SOLUTION.

FIRST, A SOLUTION TO THE IMPACT MITIGATION ISSUE SHOULD RELY ON THE EXPERTISE OF LOCAL GOVERNMENT FOR THE MANAGEMENT OF MITIGATION PROGRAMS. THE COUNTY COMMISSIONERS, MAYORS, CITY COUNCILS, PLANNING COMMISSIONS AND OTHER LOCAL LEADERS ARE THE ONES MOST SENSITIVE TO THE NEEDS OF THEIR COMMUNITIES. YET A SOLUTION MUST BE SUFFICIENTLY FLEXIBLE TO ALLOW LOCAL GOVERNMENTS THE BENEFIT OF TECHNICAL ASSISTANCE FROM THOSE WHO MAY HAVE EXPERIENCED RAPID GROWTH BEFORE OR OTHERS WHO HAVE PROFESSIONAL KNOWLEDGE OF MITIGATION TECHNIQUES.

SECOND, AN OVERALL SOLUTION SHOULD SPREAD THE COST OF MITIGATON AMONG ALL THOSE WHO WILL BENEFIT FROM THE INDUSTRIAL DEVELOPMENT WHICH IS CAUSING THE GROWTH. SIMPLY PUT, GROWTH SHOULD PAY ITS OWN WAY. THOSE WHO SHOULD BE INVOLVED INCLUDE:

1. CONSUMERS WHO WILL BENEFIT FROM THE NEW RESOURCE BASE OR WHO WILL USE THE PRODUCTS.

2. LOCAL PEOPLE, WHETHER LONG-TIME OR NEW RESIDENTS, WHO WILL BENEFIT FROM INCREASED ECONOMIC ACTIVITY OR NEW FACILITIES AND SERVICES.

3. COMPANIES WHO WILL PROFIT FROM THE DEVELOPMENT.

THIRD, AN OVERALL MITIGATION SOLUTION SHOULD USE GOVERNMENT FUNDS OR ANY OTHER RESOURCES AS COST EFFECTIVELY AS POSSIBLE, WITH A MINIMUM OF WASTE DUE TO BUREAUCRATIC RED TAPE SUCH AS EXCESSIVE REPORTING OR APPLICATION REQUIREMENTS.

FINALLY, A MITIGATION SOLUTION SHOULD BE A TRUE PARTNERSHIP AMONG LOCAL RESIDENTS, GOVERNMENT AND AREA INDUSTRY. NOT AN ACADEMIC, SUPERFICIAL EFFORT OR ONE IMPOSED BY GOVERNMENT EDICT, BUT A TRUE PARTNERSHIP IN WHICH ALL PARTIES SEARCH TOGETHER FOR COMPREHENSIVE LONG-TERM SOLUTIONS.

I BELIEVE THAT THE PEOPLE OF UINTA, LINCOLN, RICH, SUMMIT AND BEAR LAKE COUNTIES IN THIS PART OF THE OVERTHRUST HAVE DEVELOPED A MODEL SOLUTION, THE FIRST OF ITS KIND IN THE NATION. LET ME RECOUNT SOME OF THE ACCOMPLISHMENTS OF THE UINTA COUNTY EFFORT.

1. UINTA COUNTY AND EVANSTON NOW HAVE FINANCED THE LARGEST SINGLE CAPITAL FACILITIES BUILDING PROGRAM EVER UNDERTAKEN FOR AN EXISTING IMPACTED COMMUNITY INCLUDING:

   A. OVER $20,000,000 IN NEW EXPANDED SCHOOL FACILITIES.
   B. A NEW COUNTY COURTHOUSE.

C. AN INDOOR RECREATION CENTER.

D. EXPANDED PARK FACILITIES.

E. A NEW PUBLIC WORKS SHOP.

F. A NEW POLICE STATION.

G. A HUMAN SERVICES CENTER DESIGNED TO HOUSE ALL HUMAN SERVICES PROGRAMS UNDER ONE ROOF.

H. A NEW SEWER SYSTEM.

I. A NEW COUNTY LIBRARY.

2. UINTA COUNTY AND LOCAL HUMAN SERVICE PROVIDERS HAVE UNDERTAKEN A MOST AMBITIOUS PROGRAM TO EXPAND AND IMPROVE BOTH THE QUALITY AND NUMBER OF PROGRAMS DESIGNED TO SOLVE THE HUMAN PROBLEMS ACCOMPANYING THIS GROWTH. EXAMPLES OF SUCH PROGRAMS INCLUDE SPOUSE, CHILD, AND SUBSTANCE ABUSE.

3. WITH PRIVATE INDUSTRY HELP, SUCH AS PROVIDED BY OIA, A GROUP OF DEDICATED AND HIGHLY CAPABLE LOCAL VOLUNTEERS HAS FINANCED AND BEGUN A UNIQUE DAY CARE CENTER WHICH PROVIDES A NEEDED SERVICE AT BELOW MARKET RATES, WITHOUT ANY CONTINUING SUBSIDY FROM ANY PUBLIC OR PRIVATE AGENCY.

4. WITH THE HELP OF AN INDUSTRY TECHNICAL ASSISTANCE TEAM, CITY AND COUNTY GOVERNMENT AGENCIES HAVE IMPROVED THEIR OWN MANAGEMENT SKILLS SO SIGNIFICANTLY THAT THEY HAVE BEEN ABLE TO ASSUME THE BURDEN OF MANAGING A GREATLY INCREASED LEVEL OF SERVICES. THESE INCREASED SKILLS HAVE ALLOWED THE AGENCIES TO USE LOCAL TAX MONIES SO EFFICIENTLY THAT THEY WILL BE ABLE TO PROVIDE THIS LEVEL OF SERVICES WITHOUT INCREASING TAXES TO LONG-TIME RESIDENTS ONE DIME.

I COULD CONTINUE THROUGHOUT THE AFTERNOON WITH THE ACCOMPLISHMENTS OF THE PEOPLE OF UINTA COUNTY, BUT TIME IS SHORT SO LET ME SAY THAT THE UNIQUE PROGRAMS WHICH HAVE BEEN IMPLEMENTED IN THIS AREA ARE A RESULT OF THE PUBLIC-PRIVATE PARTNERSHIP. INDUSTRY AND LOCAL AND STATE GOVERNMENTS HAVE WORKED TOGETHER THROUGH:

1. JOINT PLANNING.
2. CONTRIBUTIONS AND GRANTS.
3. LOANS.
4. TECHNICAL ASSISTANCE.
5. UNIQUE METHODS FOR TAPPING FUTURE TAX DOLLARS AT THE FRONT-END OF THE GROWTH CURVE.

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FUNDING IN ALL AREAS HAS BEEN A JOINT RESPONSIBILITY IN WHICH ALL PARTICIPANTS HAVE CONTRIBUTED THEIR FAIR SHARE.

THAT BRINGS ME TO THE FEDERAL ROLE IN IMPACT MITIGATION. YOU ARE THE CONDUIT BY WHICH A SMALL PORTION OF THE IMPACT MITIGATION RESPONSIBILITY CAN BE SPREAD AMONG THOSE WHO WILL BENEFIT THE MOST FROM OVERTHRUST DEVELOPMENT -- THE PEOPLE OF THE UNITED STATES. AND I BELIEVE THIS PARTICIPATION IS VITAL BECAUSE THE ENTIRE NATION WILL BENEFIT FROM THE DEVELOPMENT OF THE SECURE, DOMESTIC ENERGY RESOURCE CONTAINED IN THE OVERTHRUST BELT.

SB 1919 IS A VERY IMPORTANT STEP IN ROUNDING OUT THE PUBLIC-PRIVATE PARTNERSHIP WHICH HAS BEGUN IN UINTA COUNTY. WE WHOLE-HEARTEDLY SUPPORT THIS LEGISLATION.

BUT WE ASK YOU NOT TO STOP HERE. CURRENTLY, THE WYOMING CONSTITUTION DOES NOT ALLOW TAX PREPAYMENTS SO THE BILL WOULD HAVE LIMITED APPLICATION HERE. I HOPE THAT SB 1919 WILL BE THE FIRST STEP IN A PROCESS WHICH EVENTUALLY WILL RESULT IN A FULL TAX CREDIT AGAINST FEDERAL INCOME TAX FOR APPROVED MITIGATION EXPENDITURES. UNDER THE SAFEGUARDS OF AN APPROPRIATE DETERMINATION PROCESS, THIS WOULD ALLOW A MOST COST EFFICIENT PARTICIPATION IN ENERGY

DEVELOPMENT BY ALL THE CITIZENS OF THIS NATION, WITH MINIMAL EFFECT ON THE FEDERAL TREASURY.

AGAIN, LET ME EMPHASIZE THAT WE FULLY SUPPORT SB 1919 AND COMMEND YOU FOR YOUR INNOVATIVE THINKING ON A CRITICAL ISSUE. WE LOOK FORWARD TO WORKING WITH YOU TO ASSURE ITS PASSAGE.

For inclusion in the record of the hearings held on April 17 in Evanston, Wyoming on SB 1919 by Senators Armstrong and Wallop, as part of the testimony of Owen F. Murphy, speaking on behalf of the Rocky Mountain Oil and Gas Association.

These population figures were developed by the Overthrust Industrial Association after more than a year of research, including surveys and consultation with local and state officials. The OIA provided the Wyoming Department of Administration and Fiscal Control with information on oil and gas employment in the Overthrust Belt in Wyoming, which the state used in its population model. These figures are the result of the joint effort.

POPULATION FIGURES

	1975	1980	1982*	1985*	1990*
Uinta County	9,615	13,021	25,000	27,087	26,689
Evanston Census Division	6,052	7,379	16,000	17,457	16,993
Lincoln County	10,217	12,177	16,000	19,231	22,024
Kemmerer, Diamondville, Frontier Area	3,900	4,713	6,934	7,241	8,825

*Best available estimate.

Senator WALLOP. I appreciate very much your coming down here.

Mr. MURPHY. Thank you.

Senator ARMSTRONG. Mr. Chairman, may I interrupt just a moment. I have been turning over in my mind how I may gracefully do this but I must do it nonetheless. I have a pilot who thinks I was going to be at the airport 4 minutes ago and if I don't excuse myself now, I'll miss the plane out of Salt Lake. So I have to go but I want to thank you for this morning's hearing and I want to apologize to the remaining witnesses and somebody asked when did we ever get time to read the transcripts of this hearing. For the most part, we don't, but I promise I will read the transcript from this point forward because I am eager to hear what others in the courtroom have to say. I'm sorry I can't stay for the balance of the morning.

Senator WALLOP. Thank you for coming down and travel safe and see you back in Washington.

Senator ARMSTRONG. See you next Monday.

Senator WALLOP. As a matter of fact, that's pretty graceful.

The next witness is Mr. Henry Lansford from the Rocky Mountain Council on the Environment, or Center for Environmental Project Solving.

STATEMENT OF HENRY LANSFORD, DIRECTOR OF THE RAPID GROWTH COMMUNITIES PROJECT AT RAMCOE

Mr. LANSFORD. Good morning, Senator Wallop.

My name is Henry Lansford. I am director of the Rapid Growth Communities project at RAMCOE. It's actually a center for environmental solving. We do projects to solve problems. There is a typo. The center is a private, nonprofit institution supported mainly by grants and contracts. Since I'm not a public official or an industry representative, I think I will take a couple of minutes to tell you where I'm coming from because my remarks won't make much sense unless I do.

On the rapid growth communities, which began in the fall of 1979, it is not another academic boomtown study. It is a very practical effort based on a commonsense idea, the idea that people in communities that are beginning to grow rapidly should be able to learn some very useful things from communities that have already been through rapid growth, their mistakes, their successes, their innovative ways of taking advantages of influx that comes with frequent dealings with programs represents an invaluable information to other communities. We spent about 2 years collecting this kind of information and organizing it into forms that will make it useful to people in rapidly growing communities. We went to four communities, Gillette, Green River, Wyo., Craig, Colo., and Carbon and Murray Counties in Utah. We met with several hundreds of people in these communities. We did individual visits with people. We held small group meetings that included local government officials, local business people, human services providers, senior citizens, young people, a real cross-section of the communities. They told us what happened when rapid growth came to their communities and how they responded to it.

We are now in the process of delivering this information to other communities that can use it. For example, night before last, we had a workshop up the road in Kemmerer in cooperation with the Kemmerer Chamber of Commerce. The theme of the workshop was doing business and changing documents. We discussed pressure on local merchants to grow or get out of business. When growth comes, the effects of chainstores on local business and the ways in which countdown development programs can be used to keep Main Street alive when shopping centers start to appear on the outskirts of town. We understand this workshop triggered some really new, effective measures that will be going on in the Kemmerer business community.

The lesson shockingly supports the main rationale for S. 1919. The idea of rapid growth problems can be handled best, and, in fact, must be handled by community leaders in the towns and counties that are affected. This really is the rationale for our projects, too. Effective rapid growth management is basically a do it yourself project for the people of Evanston and Unita County and Kemmerer and Lincoln County and other rapid growth communities. There is no way that consultants from Denver or Boston or bureaucrats from Cheyenne or Washington or industry community relation people from anywhere else can come in and solve the problems for the communities. Also, these kind of people can be very valuable sources of information and economical assistance, but the initiative and responsibility really rests with the people in the communities.

There are two aspects in which rapid growth has had a lot of attention. The first is what we are talking about, the needs to finance, being money to pay for schools, roads and sewage treatment plants and facilities and services which are needed when growth first begins. The second is for comprehensive professional planning. Experience has shown that you can't solve rapid growth programs by just throwing money at them and it's also become very clear in many communities that planning efforts can't be effective unless they are used and understood throughout the community. So we are looking at an equally rapid growth management that we call community preparation for change. Stated simply, community preparation involves getting people in the community talking about change, getting people thinking about change and getting people working together to respond to change in constructive ways. It sounds simple, but it's not. I think one reason that it's not simple is that, maybe, people in this part of the country have a strange tradition of self-reliance. Westerners are pround of being able to make it on their own, but the strongest message we have got from rapid growth burdens is that people have to work together to acknowledge their dependence on one another and their needs to cooperate with each other in order to solve these problems. I think one of the very areas has been discussed this morning.

The fact that much of the impact of development falls on to towns while most of the tax revenues goes to the counties and school districts, in Wyoming, the Joint Powers Act provides one solution to this problem, but it takes a great deal of cooperation and working together before the joint bowers board can be established. So we see these three elements of growth management: Front-end

financing, careful planning, and community preparation as being sort of like the legs of an old fashioned milking stool. If they are all there and they are all the same length, the same can be absolutely solid and stable. But if one is missing or they are not equal, the stool can't stand up or support anybody who wants to sit on it.

It appears that the Energy Community Self-Help Act of 1981 is a very valuable step toward providing one leg for the rapid growth milking stool, but what about the other two? It's critically important that the money provided by prepayment of taxes and tax deductible contributions be used to provide facilities and services that have been identified and assigned priorities through a careful planning process. This process should be developed by city and planning processes watching closely with her own and other community leaders as well as the industry and the people in the community. We have been working with some communities in Colorado and Wyoming to help them develop this king of broadly based community preparation for the changes that are coming.

On Thursday morning of this week we met with Kemmerer and Lincoln County officials to begin planning a work shop to involve more Kemmerer people, more deeply with issues and choices that are facing their community. Community leaders there are deeply concerned about the need for more citizens to be aware of and involved in the complex issues and the difficult choices that will determine the future of Kemmerer.

Here is my main concern about Senate bill 1919. It clearly addresses the need for front-end finances in a direct and very practical way, but it doesn't insure that this front-end money will be used for needs that have been determined by careful planning processes and that are recognized and supported by the people of the community. It may be that what is needed here is not Federal insistence on this process but encouragement from State levels to help it occur, such as the Wyoming Industrial Siting Act, which has been mentioned several times this morning. At any rate, I think it's very important at this point to make sure that we don't build any more one-legged or two-legged milking stools. If we do that, the thing won't stand up.

Thank you.

Senator WALLOP. Thank you very much for your statement.

We contemplated being as much more specific as you suggested might be possible and in effect rejected it because my experience, at least, Congress and certainly my experience as a legislator in the State of Wyoming, is that too often when Congress or rule drafters—whether they be from some agency in Government or the Internal Revenue Service, get to interpreting what was on our minds, much of what we hope to accomplish just doesn't seem to be there anymore. You know, I mentioned earlier at the first impact legislation which I was involved in and worked and finally got $120 million, as I recall, that was dedicated to resolving impact problems in the States. The formula went so that a significant proportion of what would be available to be spent was to go to Appalachia, which, indeed, was not experiencing the kind of impact that we are talking about. They are having reemployment where they had had large unemployment, or as a result of the coal bust cycle, they were having large reemployment because of the coal boom

cycle. But more importantly than that, out of that $120 million, only $90 million of that would have reached the States. There was $30 million in administrative top side, which isn't a very good buy for the country, which is trying to recognize an obligation willfully and then the definitions that we had in there dealing with what was impact, and everything, so restricted the communities' ability to plan, as you suggested, as necessary and as you're obviously on the grounds of it, that many complain to us that what we were about to do was to solve problems that didn't exist and leave those which did exist remain. Perhaps, also, a little bit about the fact you didn't have to do it later. So we felt, Senator Armstrong and I, that you can't expect a community or a subdivision that might be engaged in these kinds of talks to be accountable unless you permit it to be accountable. I think you have correctly identified, quicker than anybody, the unique impact that given events are going to have on this intrastructure, whether there is a governmental one, a commercial, or environmental one or anything. It's different in every place and my experience in Congress is that every time we start throwing a blanket over the country to start trying to find the problems that exist from Florida to Washington State and California to Maine that we solve some problems all over the country that don't really exist. We sort of deal with it, but it's the necessary process of trying to accommodate everybody's individual ideas as to what it's going to take in a particular dollar amount to take care of his particular constituents and as a consequence, many times we end up taking care of nobody really well. We take care of some problems that do exist, but the formula to try to define this would almost certainly mean that you didn't accommodate most of the western slope because of the problems of the front rate. To try to define impact in the Rock Mountain area would miss, in many respects, what is unique about the problems in Wyoming. So we really recognize what you've said in terms of contemplating how we would draft this, but I think we constructed it on the hopes that the people on the ground—and I think it's been borne out in many respects by the cautious—but that generally approving testimony that we have had here today and certainly yesterday.

Mr. LANSFORD. If I could make one more comment. I certainly understand those reservations and I think as a hopeful note, the communities that we have been working in all had their rapid growth, their peak periods of rapid growth, several years ago in the midseventies. One thing that was clear was they could have avoided some mistakes if their cities, towns, and industry had worked much more closely together much earlier in the game to do comprehensive planning and to prepare the community to accept the things that were happening and to get behind or reject particular things early in the game. It appears to me, although we haven't looked at it in communities such as Evanston in any detailed way, but it appears that this hinge is probably growing much more spontaneously now that city and council and officials see the need for this much more clearly than what we sometimes call the first generation of boomtowns. So the problem may be taking care of itself. Nevertheless, it's a critical aspect of managing rapid growth.

Senator WALLOP. And in their experience plus the understanding that has been developed by the study of it in groups such as yours

and the ability to go back and help does little for the suffering that took place in Green River, Rock Springs, Gillette, or Craig, or any of the places that had it, but it's certainly a benefit to those new communities who are either involved in it now or on the threshold of it. I don't think anything we do will take away the problem of rapid growth. What we are talking about is the true definition of it. You won't find a pill that will remove the entire pain, I don't think.

I appreciate your coming here and would look forward to having any advice that you may have on the bill.

Mr. LANSFORD. Thank you very much.

Senator WALLOP. That concludes the scheduled witnesses. Mr. Ben Brychta of Texasgulf was unable to be here.

There is obviously time, if there is anybody in the audicence that may wish to make a comment.

Mr. KIMBALL. Senator Wallop, mayors, and councilmen. Good morning. I appreciate the opportunity to provide a concerned comment this morning. I am Robert Kimball and I'm the project manager for the Smokey Canyon operation which is located just west of Afton, Wyo., some 8 miles, unfortunately, over the State line in Idaho.

We, of course, have the problems of the county and State taxes being collected and supporting Idaho, whereas the town of Afton and the Star Valley area will be the residence of the bedroom community, so to speak, for the people who will be working at that operation. Let me say that the J. R. Simplot Co. fully suports the Energy Community Self-Help Act, S bill 1919, and I have had the opportunity to observe the beneficial effects of the prepayment of property taxes, a good example being the Cyprus Springs operation at Thomas Creek near Challis, Idaho, where this was done after the Idaho Legislature did enact a bill which allowed that prepayment to be accomplished and, certainly, it has made a world of difference in mitigating the impact in Custer County where, because of that open pit mining development, the size of Custer County was effectively doubled almost overnight.

I would like to, however, invite your attention, Senator, to several other problems attendant with this business of paying property taxes and, also, the collection of royalties, particularly from Federal phosphate leases in the case of leasable minerals. Presently 50 percent of the royalties go to the Government, the Bureau of Reclamation, and these are essentially lost, as far as any mitigation of impact in the local area, or even in the region, probably. The other 50 percent, 40 pecent of that remainder goes to the State and only 10 percent then to the counties for road construction and for schools.

Senator WALLOP. Mr. Kimball, was that a State decision in Idaho or is that as a result of Federal restrictions as to what can be done with the 50 percent?

Mr. KIMBALL. This is a Federal restriction, Senator, and we feel that certainly it would be much more beneficial if that proportion were changed and a much greater proportion of those royalties went to the State and, particularly, to the counties, for mitigation.

Senator WALLOP. Now, I know that it's a Federal law to divide it 50–50, but once it gets to the State, is it restricted by the Federal law as to how the State proportions it within its own boundaries?

Mr. KIMBALL. Yes, sir, that's the case.

The other problem that you have with trying to mitigate impacts on a local level, the extra taxes, Wyoming being a good example. You have a tremendous surplus at the present time in the State and there is a problem in getting some of that money back down to the counties where, essentially, it would be much more effective. We believe—and I realize that's a problem for the State legislature to address. However, when schools, for instance, are bonded to capacity, they only have recourse to grant money unless the State is disposed to provide some of the extra tax surplus and, to my knowledge, that hasn't been the case, at least as far as Lincoln County is concerned to date.

We have an example, I think, if you are interested in an industry representative's problems, as far as providing up-front moneys. The lower Valley Power & Light in Afton, the Afton area, the Star Valley area, is currently in the process of constructing a powerline, that is commonly called the Tin Cup Loop, from the Freedom substation west across Tin Cup to an area north of Soda Springs. Then this route goes south and back down across to the Fairview subdivision located there at Afton. The company, in order to develop this open pit mining operation, has agreed to provide the up-front funding for an 8-mile segment of that line. This power development is desperately needed by the people in Star Valley. They are presently looking at demands which will exceed their capacity within a year or two and we, of course, were very interested in providing that up-front money in order to get power for the mining operation. One problem we had was that in trying to claim an investment tax credit on that, we were looking at the problem of reimbursement by the cooperative as soon as the powerline is energized. Consequently, it's of no avail to claim this investment tax credit since we had to capture it very quickly within 3 years. The problem then is that because of the high interest rates currently, whether or not the optimum costs on that $2 million in up-front money is going to be offset to any degree by the cost of the construction in a year or two as a result of the increase in construction costs and inflation, say, you are still looking at, probably, say 6 or 8 percent spread-on money and in this case, that amounts to something like $100,000. So we are considering, seriously, deferring the capitalization on that powerline and if indeed we were able to claim any tax credit, this could certainly mitigate that problem. We realize, of course, that the Star Valley area needs that powerline completed as soon as possible, although the Smokey Canyon operation is not scheduled to come online until 1984.

I would also like to refer to the problem of temporary impact from construction workers. That project, about a $50 million project, we estimate, will require 250 construction workers, most of them coming from outside the area, depending on the contractor. Then we will have to relocate a permanent work force of approximately 100 people who will then be living in the Afton area. So we feel that in order to construct the access roads, both in Wyoming and Utah, the powerline and also in order to develop this natural

resource, fertilizer being critical to the economy of the country, that this sort of approach is certainly worthy of merit. The tax-deductible impact contributions which industry could avail itself of, can make a very big difference. Senator, you're aware of the environmental impact statement which has been done on that statement and you have received concerned comments from the elected officials in Lincoln County and the Afton area. We are heavily involved—at both the county and local level—with these people to mitigate these impacts. The social economic studies which have been done, we have updated in order to provide the real world estimate, if you would, rather than the worst-case basis and we feel that the impact, particularly on the schools, can be mitigated, but in this unique situation, which has already been referred to where the mine is in one State and the bedroom community, so to speak, is in another, that that's tax deductible impact contributions which could be a very useful vehicle and we commend you for the introduction of this legislation.

Thank you.

Senator WALLOP. Thank you, Mr. Kimball. I appreciate it.

Anybody else care to make a statement?

[No response from the audience.]

The hearing record will remain open for 2 weeks from today and so that if anybody that is now here in the audience would care to make comments on it, we would be pleased to receive that and put it in the record. All statements received will be put in the record in full.

I want to thank everybody, particularly the staff who worked late hours last night and who have had a pretty long day involved in putting these hearings together and their contributions to it and express my hope that what we have gained in the last 2 days, both here and in Grand Junction, will be persuasive to our colleagues as we move this from the subcommittee level to the full Finance Committee level. I think realistically that the committee is very full. We have whatever revenue enhancements or lack of them will be coming down from compromise talks underway, plus, as you may know, we have control over significant portions of the budget in that half of the budget comes through the finance committee, so I would caution you it will not be passed in the next 2 or 3 days. [Laughter.]

Seriously, I believe that we could get this to the committee's agenda by the first of June and then, when it could find its way to the top of that agenda, is literally dependent upon a lot of other efforts that are in front of us that are unpredictable. We have Murphy's Oil & Gas Drilling in that part of the world and I appreciate what you have all done in giving it your time and thoughts to the problem identified by this and whatever small ways this bill can help solve them.

Thank you, and the subcommittee stands adjourned.

[By direction of the chairman, the following communications were made a part of the hearing record:]

National Council
on
Synthetic Fuels Production

COMMENTS OF THE
NATIONAL COUNCIL ON SYNTHETIC FUELS PRODUCTION
REGARDING
S. 1919, THE ENERGY COMMUNITY SELF-HELP ACT
BEFORE THE
SUBCOMMITTEE ON ENERGY & AGRICULTURAL TAXATION
OF THE SENATE COMMITTEE ON FINANCE

APRIL 28, 1982

Introduction

Mr. Chairman and distinguished members of the Subcommittee, the National Council on Synthetic Fuels Production welcomes the opportunity to comment upon S. 1919, the "Energy Community Self-Help Act of 1981," introduced by Senators Armstrong and Wallop.

The Council is a non-profit association of some 50 companies involved in the synthetic fuels industry. Our members include project sponsors as well as companies engaged in research and development, equipment manufacture, and project finance.

The Council supports S. 1919 as a means of addressing the needs of communities facing rapid growth due to energy development. Addressing this need is consistent with a national policy to facilitate development of domestic energy resources. The bill would amend the Internal Revenue Code so that:

(1) Where the state or local government permits the prepayment of property taxes or fees for

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facilities and services to meet the needs of the increased population arising from energy development, companies with large energy projects could deduct such prepayments during the year in which they are made; and

(2) Companies with large energy projects could deduct qualified energy impact contributions paid for community facilities and services.

The Nature of the Impact Problem

The basic problem that the legislation addresses is the delay in receipt of state and local tax revenues from major energy projects to support growth of communities. The construction of a major new energy facility can cause a significant increase in the population of a small rural community in less than two years. The housing and community facilities and services in many of these communities are inadequate to meet the needs of the incoming population.

Significant expansion of services and new construction facilities generally must occur during the first few years of the energy project, before business revenues are generated and a sufficient tax base has been established. The front end financing problem is usually one of timing rather than of a long-term shortfall, since the increase in public revenues may ultimately exceed the total cost of municipal expansion. However, the fact that the problem is

one of timing rather than net loss in the long term does not make the problem less severe. In addition, providing operating capital for the early years of the impact cycle may be as serious a problem as financing capital in place. Uncertainty regarding the availability of operating capital can make local officials reluctant to invest in infrastructure regardless of the availability of funds.

There are a number of other factors that characterize energy-induced growth in rural areas that affect the abilities of small communities to deal with the problem:

- o Uncertainty: The timing of project development may be uncertain due to changes in project economics and financing, changes in state and federal policy, and the possibility of court action. The unpredictable nature of development increases the risk to initial investments in community facilities.
- o Magnitude of the Development: In many rural areas raising significant funding to expand the existing school system to meet the needs of the current population often proves difficult. It is even more difficult to raise public revenues necessary to construct essentially an entire new community -- including water, sewer, road improvements, schools, and other services -- for an unidentifiable new population.

- Pace of Development: Growth induced by energy development can occur rapidly, frequently with a major impact in the first few years of development. The small rural communities involved often have experienced stable or declining populations for many years preceding development, and are ill-prepared for the sudden surge in population and demands for community facilities and services.
- Temporary and Fluctuating Nature of the Growth: During the construction period of a major energy facility, there may be significant peaks and valleys of population and the permanent operating force often is smaller than the construction force. The communities in the area, therefore, must deal with a rapidly increasing but largely temporary work force in order to avoid substantial excess capacity of facilities and services during the operating phase.
- Condition of Existing Municipal Services and Facilities: Many rural communities will require entirely new facilities, extensive expansion, and replacement of existing facilities. For the most part, those services and facilities that do exist have little excess capacity or elasticity, and their condition is such that replacement is frequently required. In addition, the isolated location often results in higher construction costs

and, because new facilities are perceived to benefit primarily newcomers and transients, there is reluctance to assume new debts prior to the certainty of new revenues.

- o Jurisdictional Problems: The new energy facility and the increased tax base it generates may be located in one political subdivision while the population settles in another.

The Effect of S. 1919

Energy companies already have demonstrated that they are willing to help local governmental entities provide necessary public services and facilities. S. 1919 could encourage further energy company impact mitigation efforts by amending current federal tax laws.

First, the bill would remove a disincentive for a company wishing to prepay state and local taxes in situations where state law would permit it to do so. Under current law, the federal deduction for the payment of state and local taxes is allowed only one year at a time. By permitting a federal tax deduction for the prepayment of a number of years of state and local taxes, the bill would remove a federal barrier to cooperation between energy companies and state and local governments particularly with regard to front end financing. It is important that federal law does not interfere with state and local initiatives such as prepayment of taxes to mitigate energy effects.

Second, the bill also would provide certainty regarding the tax treatment of qualified energy impact expenditures. Under current law, a combination of factors result in uncertainty regarding the treatment of energy impact expenses. For example, certain expenses are deductible only when made by an "ongoing trade or business," and not during the lengthy period in which impacts may be felt but project operation has not yet begun. As a result, treatment of expenditures may vary according to the particular circumstances. S. 1919 clarifies that an energy company's expenses for community facilities should be considered a normal business expense deductible in the year made.

The S. 1919 provision to insure a deduction of expenses is simple, readily enforceable and would involve a minimum of long-run cost to the federal government. Since the community needs will vary greatly and are difficult to predict, it is critical that any federal approach to facilitate mitigation efforts be as flexible as possible.

Conclusion

S. 1919 encompasses a simple, workable and inexpensive approach to facilitating mitigation of the impacts of energy developments. Although the bill, by itself, does not address all the problems that industry and communities are wrestling with to deal with rapid growth, the bill would remove a significant federal impediment to

communities and companies who are attempting to work together to overcome front end financing and other impact problems. It would do so at a minimum of cost and without disadvantaging other communities.

The members of the Council are grateful for the efforts of Senators Armstrong and Wallop in addressing the important issue of energy impact mitigation. Furthermore, we appreciate the opportunity to comment upon S. 1919, and are pleased to voice our support for the bill.

TESTIMONY OF JOHN S. GILMORE
SENIOR RESEARCH FELLOW, UNIVERSITY OF DENVER RESEARCH INSTITUTE
BEFORE THE
SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION
SENATE COMMITTEE ON FINANCE
APRIL 16, 1982

My name is John S. Gilmore. I am Senior Research Fellow at the University of Denver Research Institute. This statement represents only my opinion, however, and not any policy of the University or any of the sponsors of my research.

Most of my work over the last ten years has been forecasting and consulting on managing the effects of community growth, usually that resulting from natural resource development or conversion projects. The majority of these projects have been in the Rocky Mountain Region of the United States.

From this experience I offer two comments for your consideration.

1. It is extremely desirable to encourage the transfer of tax revenues in time and between places, for impact assistance.

By transfer in time, I mean making available revenues before they would be available through normal processes of taxation to help impacted communities pay the front-end costs of rapid growth. In other words, it is desirable to encourage tax prepayment in these cases.

By transfer between places, I mean making available money for front-end costs of accommodating growth to impacted jurisdictions which may never have taxing powers over the tax base created by new "major energy and resource development activities." The typical problem is that of the municipality which houses and services the population generated by "development activities" which are located outside the municipal taxing jurisdiction. In many of our states these municipalities may benefit

from some tax revenues from higher-level jurisdictions, but this "trickle down" revenue is often limited severely by state statutes and constitutions. It is certainly desirable to encourage contributions to such impacted jurisdictions which have little or no ability to benefit from tax prepayment.

Therefore, this proposed legislation seems beneficial as it encourages tax prepayment and contributions to impacted communities by offering what appears to me to be more equitable tax treatment of the firms involved.

2. I have one worry about such legislation, but I am uncertain about the merit of any cure connected with this sort of legislation. The worry is this: How do you increase the likelihood that prepayments or contributions will be equitably distributed among the various impacted jurisdictions of the impacted community or region? Or that such a difficult type of equity will even be sought?

There will often be inter-community or interpersonal rivalries or grudges which may occasionally affect permitting or other processes for negotiating and distributing prepayments or contributions. There may be temptations for some company to seek lower-cost impact solutions by divide and conquer tactics among jurisdictions, or by lowest-cost solutions which might transform barely viable hamlets into larger rural slums.

I can't advocate detailing state or local planning policy through Federal tax legislation. I'm also skeptical of reducing Federal revenues levied on corporate net profits (by this legislation) <u>if</u> there is a significant possibility that the process will occasionally aggravate the sort of problems it is designed to ease. And it would take very few such incidents to discredit this important concept. It seems to me this is still a challenge to those drafting this important and desirable legislation.

Western Regional Council

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May 25, 1982

The Honorable Malcolm Wallop
Chairman
Subcommittee on Energy and Agricultural Taxation
Senate Committee on Finance
Room 2227, Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Wallop:

In testifying on behalf of the Western Regional Council during your April 16 field hearings on S. 1919 in Grand Junction, Colorado, I noted the WRC's concern with the $50 million capital investment or anticipated gross income figure in determining eligibility for tax deductions under the bill. You and Senator Armstrong suggested that the WRC provide alternative approaches.

It was appropriately noted in the hearing that without some definition of the kinds of projects and the circumstances permitted to qualify for deductibility to narrow applicability and limit budget impacts, passage would be more difficult. It is also difficult, however, to ascertain an appropriate dollar amount. This figure must reflect project size, or a population growth figure related to the project which will uniformly indicate community socioeconomic impacts warranting current federal tax deductibility.

The capital requirements of a project or the anticipated gross income over the life of a facility are only monetary measures of investment and potential return. They do not necessarily have a direct relationship to the number of employees or to potential socio-economic community impacts. The WRC believes, that in many cases, they are an inappropriate tool for determining eligibility.

It is the percentage of population growth attributable to a facility which is key here, not project size or cost. Another important parameter is the capacity of existing community infrastructure to absorb growth and related costs. Smaller rural communities experience a far greater growth shock from project location than do more urbanized centers where the workforce is distributed through an existing community.

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As was discussed during the April 16 hearing, the $50 million figure is arbitrary. As best we can determine, percentages of population growth, such as the eight percent direct growth cited in the old 601 program under the Fuel Use Act, may be just as arbitrary. Furthermore, as the WRC noted in its statement, in cases of dispersed development such as in Evanston, Wyo., several facilities and companies active in the area create a cumulative impact, which as you know, is no less real than the impact from one power plant or other "major" facility.

The definition of "operation of major energy and resource development activities" included in S. 1919 clearly indicates the kinds of projects intended to qualify for deduction. With or without a dollar figure, the scope of eligibility is limited to these kinds of energy and resource development projects. Eligibility for current deductibility for prepayment of state and local taxes is further limited to those prepayments authorized by state or local law to be prepaid and used for impact assistance purposes. A definition including a dollar figure or percentage of growth could hinder otherwise qualified participation under those state or local authorizing statutes.

For instance, the state of Utah has no limitation on project size in its prepayment authorizing statute. You may wish to review Utah Governor Scott Matheson's statement at the Evanston hearing in this regard.

Requiring state or federal designation of an impact area or community as another alternative would inject an additional layer of bureaucracy. Both the project sponsors and local communities would find this undesirable.

We feel it is best, under these circumstances, to let the state authorizing prepayment statute determine requirements for project sponsor prepayment. If the project meets the energy and resource development criteria under (b)(2) in S. 1919 on page three, absent the dollar requirement, it should qualify for the federal deduction. This approach will afford greater state flexibility to address their specific needs. Further, it will allow deduction in instances of dispersed development, and still restrict eligibility to a limited number and a certain class of development activities.

The Western Regional Council appreciates this opportunity to more fully respond to S. 1919.

Best regards,

Sincerely,

James C. Wilson
Chairman
Impact Assistance ad hoc Committee

STATEMENT SUBMITTED BY ATLANTIC RICHFIELD COMPANY

To the Subcommittee on Energy and Agricultural Taxation
of the Committee on Finance
United States Senate

On S. 1919, the Energy Community Self-Help Act

In connection with hearings held
April 16, 1982

ATLANTIC RICHFIELD COMPANY POSITION
Major Resources Development Impact Assistance
Summary

To alleviate what may be a significant financial impediment to the development of natural resources, Atlantic Richfield Company supports proposals to provide incentives for sponsors of major projects to assist communities or areas which would be affected by such projects. Legislation should include immediate deductions for expenditures and contributions, direct or indirect, for energy, nonfuel minerals and other natural resource impact assistance, as well as prepayments of State or local taxes, fees, rents or royalties which would be available for impact assistance.

Incentives for such projects should be extended across the board to cover development of oil and gas, nonfuel minerals, and other natural resources. Furthermore, the criteria for qualifying an area as "impacted" should be left to state determination, thereby obviating any conflicts between Federal specifications and established state standards.

ATLANTIC RICHFIELD COMPANY POSITION
Major Resources Development Impact Assistance

Increasingly, new energy and mineral resources are being found in areas of the country which historically have been lightly populated. Major efforts to develop these resources must accommodate the labor force required. For a long-term project, suitable facilities and services must be put in place so that families can become established in the area. A community infrastructure sufficient to serve the expanding population must be developed.

Community facilities, such as schools, hospitals, water and sewage treatment plants, are generally financed through property taxes. In so-called boomtown areas, however, capital needs outstrip available tax resources because of a time lag of about two years before newly developed commercial and residential property can produce tax revenues. As a result, states and local communities have been hard pressed to discover funding sources to meet the immediate societal requirements associated with large scale resource developments.

Sponsors of large energy or mineral projects are generally committed to working with local communities to mitigate development impacts, as they recognize that adequate front-end preparation is in their own best interest. Healthy communities mean higher worker morale, less employee turnover, higher productivity, shortened construction time and lower capital cost. The community benefits as elements of the project are placed on the tax rolls more quickly.

While companies do make substantial financial commitments to mitigate the effects of development, signficant Federal tax disincentives to initial payments still exist. The following tax disincentives currently exist:

o Prepayment of state and local taxes, fees, rents and royalties

To qualify for a deduction, the Internal Revenue Service requires that state or local taxes must be paid or accrued during the taxable year. However, some states may require a front-end lump sum payment to affected communities that is based on an estimate of future taxes. Because the state or local unit of government cannot place a tax lien on the company's property for non-payment of future taxes, under current law the prepayment is not considered a tax accrued during the taxable year. These prepayments, therefore, are not deductible for Federal income tax purposes by reason of both timing and definition.

o Contributions for charitable purposes

Corporate contributions to hospitals, educational institutions, governments and churches are deductible up to 10 percent of taxable income. However, if such contributions are mandated by state law before a project can go forth, they do not qualify as deductions for Federal income tax purposes, but must be treated as a capital expenditure. In many instances, such contributions benefit the regional community in total and not just those workers directly associated with the developing project.

Three Federal bills currently under consideration would allow deductions for qualified expenditures in the taxable year paid:

- o S. 1731, the Energy Impact Migitation Tax Incentive Act, introduced by Sen. Gary Hart (D-CO) and Jennings Randolph (D-WV), would allow deductions for expenditures and contributions made for impact assistance as well as for prepayment of Federal, State and local taxes, fees, rents and royalties which would be available for impact assistance. The bill is in the Senate Finance Committee.

- o S. 1732, the Energy Impact Mitigation Act, introduced by Sen. Gary Hart (D-CO) and Jennings Randolph (D-WV), would permit prepayment of the portions of Federal royalties or rentals which would be allocated to the state. The bill is in the Senate Energy and Natural Resources Committee.

- o S. 1919, the Energy Community Self-Help Act, sponsored by Sen. William Armstrong (R-CO) and Malcolm Wallop (R-WY) would allow deductions for energy impact assistance expenditures and contributions, direct or indirect, and prepayment of State or local taxes, fees, rents or royalties. The bill has been referred to the Senate Finance Committee.

Projects eligible for benefits in these bills range from energy, including coal, uranium and synthetic fuels, to nonfuel minerals and the Alaska Natural Gas Transportation System.

The criteria for benefit deductions have been variously set as a function of a predetermined rate of population and/or employment growth in the area, the inadequacy of existing facilities to meet perceived needs, the inability of governments to meet funding requirements and the size of a project. States with impact assistance legislation have usually defined the threshold in terms of their particular experience with large scale developments. Montana, for example, specifies an increase in estimated population of at least 15 percent in a local government unit compared to the average population in the three-year period immediately preceding the beginning of construction for a large-scale mineral development.

Company Position

Atlantic Richfield Company has had considerable experience with meeting increased community needs resulting from natural resource development. However, not all companies or natural resources deposits can fully support the front-end financial assistance required for community impact assistance. To alleviate what may be a significant financial impediment to the development of natural resources, Atlantic Richfield Company supports proposals to provide incentives for sponsors of major projects to assist communities or areas which would be affected by such projects by eliminating existing disincentives. Legislation should include immediate deductions for expenditures and contributions, direct or indirect, for energy, nonfuel minerals and other natural resource impact assistance, as well as prepayments of state or local taxes, fees, rents or royalties which would be available for impact assistance.

Incentives for such projects should be extended across the board to cover

development of oil and gas, nonfuel minerals, and other natural resources. Furthermore, the criteria for qualifying an area as "impacted" should be left to state determination, thereby obviating any conflicts between Federal specifications and established state standards.

Modest changes in Federal tax law may thus facilitate cooperation between project sponsors and affected communities for their mutual benefit and the overall good of the country's resource-based economy.

E. V. Benesch
Gov't. Rels/Govt'l. Issues
4/14/82

Written Statement

of

Phillips Petroleum Company

Submitted for the Record

in connection with

Hearings in Grand Junction, Colorado

and Evanston, Wyoming

of the

Subcommittee on Energy and Agricultural Taxation

of the

Committee on Finance

United States Senate

April 16-17, 1982

Written Statement of Phillips Petroleum Company relative to S.1919 to the Subcommittee on Energy and Agricultural Taxation of the Senate Committee on Finance - April 16-17, 1982

Phillips Petroleum Company, an integrated energy and chemicals company headquartered in Bartlesville, Oklahoma, is pursuing oil and gas, oil shale, geothermal, tar sands and other energy and strategic minerals exploration and production activities in the United States and, in particular, areas of the Rocky Mountains and Trans-Mountain West including the states of Colorado, Wyoming, and Utah. Phillips recognizes and understands that large-scale energy development can impose a temporary burden upon communities and local governments during the early stages of such development due to rapid population growth and the resultant demand for public services.

Phillips Petroleum Company supports enactment of S.1919, the "Energy Community Self-Help Act of 1981," introduced by Senators Armstrong and Wallop. S.1919 provides a simple and direct method to enable orderly and harmonious energy development to go forward by allowing energy projects to prepay state or local taxes, to make community assistance contributions, and to deduct such payments in the year such payments are made.

The bill addresses one of the major problems faced in achieving the national goal of developing secure and reliable domestic energy sources. This problem is commonly called the socioeconomic impact of energy development, referring to the impact that additional population associated with large-scale energy projects has on essential community facilities and services in largely rural areas. Large-scale energy projects take years to start up. A crucial question facing local governments, where our projects are planned, is how communities will finance the facilities and services necessary to serve the increased population, especially during the construction phase of energy projects. We are directly concerned

because our employees will someday work in these communities. A stable, productive workforce is essential to a viable project. We also are aware of the large responsibility local governments have in ensuring the availability of essential public facilities and services when they are needed. Our strong desire is to work with the affected local governments to achieve this objective.

S.1919 will assist affected local governments and us in fostering cooperative planning efforts for our projects. By authorizing current year federal deductions for prepayment of state and local taxes, S.1919 would allow us to move revenues derived from our future state tax liability to the present when the revenues are needed to finance community expansion and new development.

Colorado and Utah have enacted excellent statues which authorize prepayment of ad valorem and other taxes. However, under existing federal law, we are faced with the dilemma that prepayment of state taxes does not qualify for federal deduction until the year in which state tax is actually due. The Internal Revenue Service has announced in several Revenue Rulings such as Rev. Rul. 60-133 and Rev. Rul. 63-55 that an accrual basis taxpayer may not deduct more than twelve months' state tax payments in any tax year. This general principal has also been followed in numerous court cases such as U.S. v. Anderson, 269 U.S. 422 (1926) and Budd International Corp., 143 F2d (CCA 3rd, 1944).

For these reasons, federal law actually provides a significant disincentive for prepaying state taxes, even though Colorado and Utah state law authorizes such prepayments. S.1919 would enable local communities to help themselves by providing an incentive for prepayment of taxes.

While federal tax deductions would be accelerated, no new federal tax subsidy would be created.

The bill would also clarify an ambiguity in existing law as to the tax treatment of expenses incurred by project sponsors for community development assistance. Currently, the Internal Revenue Code does not contain a specific provision pertaining to community development contributions, although Section 167 addresses deductions made for charitable or civic purposes. The tax treatment of community assistance contributions intended to mitigate socioeconomic impacts varies depending on the circumstances surrounding the contribution and the nature of the contribution. In most cases there is substantial uncertainty, under current law, as to whether a contribution will qualify as a deduction. The prevailing Duberstein Doctrine (see Comm. v. Duberstein, 363 U.S. 278 (1960) which requires that charitable gifts must be made with " . . . detached and disinterested generosity" disqualifies most community assistance payments because there is, frequently, at least an incidental benefit to the contributor. S.1919 would remedy this problem by clearly stating that deductions will be allowed for qualified energy impact assistance contributions.

In summary, Phillips feels that S.1919 treats two substantial stumbling blocks or disincentives to close cooperation between affected communities and energy project developers. We appreciate the opportunity to comment on the proposal and support its passage.